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# Battered Women and Identity Work: Negotiating Agency, Responsibility, and Justice with the State

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BATTERED WOMEN AND IDENTITY WORK: NEGOTIATING AGENCY,  
RESPONSIBILITY, AND JUSTICE WITH THE STATE

by

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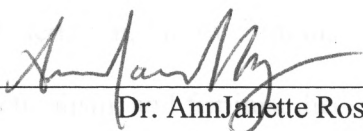
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Doctor of Philosophy

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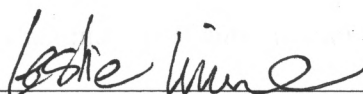
2004

This thesis entitled:  
**BATTERED WOMEN AND IDENTITY WORK: NEGOTIATING AGENCY,  
RESPONSIBILITY, AND JUSTICE WITH THE STATE**  
written by Amy Leisenring  
has been approved for the Department of Sociology



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Dr. AnnJanette Rosga



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Dr. Leslie Irvine

4/13/04

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Date

The final copy of this thesis has been examined by the signatories, and we find both the content and the form meet acceptable presentation standards of scholarly work in the above mentioned discipline.

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## Abstract

Leisenring, Amy (Ph.D., Sociology)

Battered Women and Identity Work: Negotiating Agency, Responsibility, and Justice  
with the State

Thesis directed by Assistant Professor AnnJanette Rosga

Sine the 1970s when the battered women's movement brought increased public attention to the issue of woman battering, a set of domestic violence discourses have emerged. These discourses have been influenced by a variety of social institutions. Through such discourses, the "battered woman" has been represented in specific ways. In this dissertation, I draw from discourse analysis, symbolic interactionism, poststructuralism, and feminist theory in order to explore the relationship between discourse, subjectivity, and the criminalization of domestic violence. Through an examination of current criminal justice domestic violence policy, interviews with prosecutors who work with domestic violence cases and interviews with women who have experienced violence in the context of an intimate relationship, I examine how domestic violence discourses: (1) re(present) victims of woman battering; (2) influence the interpretive processes of both criminal justice system professionals and battered women in their interactions with one another; and (3) situate and mediate the experiences of both criminal justice system professionals and battered women. I demonstrate that mainstream representations of abused women both enable and limit the self-constructions and presentations of battered women and ultimately impact the women's experiences, particularly in the context of the criminal justice system. However, as I illustrate, despite being constrained by the institutional power of the criminal justice system, battered women are never completely powerless and are able to engage in acts of agency and resistance.

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## CHAPTER ONE

### Introduction

Much attention has been given to woman battering in the United States since the 1970s when feminists first declared it a "legitimate" social problem (Schechter, 1982). In the past several decades, a domestic violence discourse has emerged, produced in a wide variety of social arenas. Domestic violence, as Ferraro (1996) states, "is both a term with specific legal and social definitions and a discourse which reflects and perpetuates cultural assumptions" (p. 78). While certainly not a unified discourse, arguably there are many dominant themes and trends in the ways in which domestic violence is conceptualized and portrayed.<sup>1</sup>

At the heart of domestic violence discourses rests the image of the "battered woman." Domestic violence discourses have constructed and represented the "battered woman" in very specific, yet often complex, ways. This identity of "battered woman" is strongly tied to larger discourses surrounding female victims of abuse in general. As many theorists have argued, there exists an assumption of uniformity in battered women's experiences (Ferraro, 1996; Loseke 1992). Domestic violence criminal justice policy and practice are not only based on dominant cultural representations of battered women, but simultaneously reproduce them. This is potentially problematic, as assuming that battered women are a homogenous population prohibits the criminal justice system from fully addressing the myriad of problems domestic violence raises.

The purpose of this work is to consider ways in which domestic violence discourses have constructed and (re)presented victims of woman battering and to

explore the “real-world” implications of these representations. Numerous sources have participated in the creation and reproduction of domestic violence discourses: victims’ advocates and shelter workers; the media; law enforcement officials and criminal justice agents; therapists and psychologists; victims of abuse; and researchers from a number of different fields such as biology, psychology, social work, criminology, women’s studies, and sociology (Ferraro, 1996; Lamb, 1999). An examination of all of these sources would be quite an ambitious project. Thus, while I consider each source theoretically and examine the “bigger picture” produced by the merged conversations from all of the sources, I elaborate on only several of them. I focus particularly on the roles of the criminal justice system and the battered women’s movement in the creation of domestic violence discourses. My exploration of the way in which these discourses manifest themselves interactively and how they are deployed in the “real world” is centered both on members of the criminal justice system and battered women, themselves.

Through an examination of current domestic violence criminal justice policy, interviews with prosecutors who work with domestic violence cases, and interviews with forty women who have experienced violence in the context of an intimate relationship, I explore, broadly, the relationship between subjectivity and discourse. I am interested in understanding how domestic violence discourses—including criminal justice policy—situate and mediate the experiences of both agents of the criminal justice system and victims of domestic violence whose cases go through the criminal justice system. Additionally, I explore how the discursive construction of the identities of “battered woman” and “victim,” particularly in the criminal justice

system, directly impacts the lives of women who experience domestic violence. I examine how women make meaning of these constructions and the contexts in which they accept or reject them in order to make sense of their experiences and have their needs met while they are involved in the criminal justice system.

The bulk of this chapter consists of a discussion of the four bodies of literature that inform or "frame" this project: (1) discourse analysis; (2) poststructural feminism; (3) symbolic interactionist approaches to victimization; and (4) feminist criminological approaches to domestic violence. After presenting these bodies of literature, I then discuss the methods I used to conduct my research and the methodological and epistemological background of this study.

In Chapter Two, I provide historical background on the roots of modern domestic violence discourses, focusing particularly on the way these discourses have been influenced by the battered women's movement, the criminal justice system, and the complex relationship between the two. Chapter Three follows with an examination of the ways in which battered women have been represented by mainstream domestic violence discourses; this involves a consideration of both dominant cultural constructions and the ways in which battered women are represented in criminal justice domestic violence policy.

In Chapter Four, I examine interviews with twenty-one prosecutors in order to illuminate how dominant domestic violence discourses influence the meaning-making processes of prosecutors who work with battered women view; specifically, I examine how the prosecutors draw from these discourses in their interactions with the domestic violence victims with whom they work. Chapters Five through Seven are

based on my interviews with forty women who were abused by an intimate partner and were somehow involved with the criminal justice system because of this abuse. All three of these chapters examine the way in which domestic violence discourses shape both the self-construction of battered woman and their lived experiences. In Chapter Five, I examine the ways in which the "victim" has been discursively constructed and explore how these constructions are central to the ways in which women make sense of themselves and their experiences. Chapter Six is structured very similarly to Chapter Five, yet involves an examination of women's identity work with discursive constructions of the "battered woman." Given that Chapters Five and Six are interrelated, I present conclusions relevant to both at the end of Chapter Six. Finally, Chapter Seven examines how dominant cultural constructions of the "victim" and the "battered woman" are central to the interactional processes of the criminal justice system; I focus specifically on communications between battered women and criminal justice system professionals, including police officers, attorneys, and judges. My concluding chapter highlights some of my most important findings surrounding the relationship between discourse and subjectivity, issues of agency and resistance, and implications of the criminalization of domestic violence.

As I will demonstrate, social scientists have extensively written about and researched the topic of domestic violence, particularly as a legal issue. We know about women's experiences with police officers and in the courts (Erez and Belknap, 1998; Ferraro and Pope, 1993; Ford and Regoli, 1993). Researchers have also examined the effects of criminal justice policy on the reoccurrence of domestic violence (Ford and Regoli, 1993; Hirschel, Hutchinson, and Dean, 1992). Literature

exists that analyzes the history of the battered woman's movement in relation to the criminal justice system (Schechter, 1982), the creation of domestic violence discourses (Ferro, 1996; O'Neill, 1998), and the ramifications of the criminalization of domestic violence (Schneider, 2000). Several researchers have also examined the processes surrounding how a woman becomes labeled a "victim" or "battered woman" and the ramifications of this (Dunn, 2001; Lamb, 1999; Loseke, 1992, Mahoney, 1994). The bulk of this work, however, has commonly been confined to the particular theoretical subfield of the researcher or theorist. What is missing is a multidisciplinary investigation that combines these approaches. For example, with several exceptions (see, for example, Dunn, 2001), we know little about how battered women draw from particular discourses in their negotiations with the criminal justice system. Moore (1994) argues that the concept of violence in the social sciences is "remarkably undertheorized," and states: "...there is an obvious need to integrate the sociological and psychological theories of interpersonal violence with theories about meaning, representation and symbolism" (p. 139). My work is an attempt to undertake such a project and by doing so, fills an important gap in the literature.

In this dissertation, I bring together feminist theory, symbolic interactionism, and discourse analysis to form a multifaceted lens through which to examine the way battered women are situated through the criminalization of domestic violence. I consider the criminal justice system to be a central site where meanings about domestic violence and battered women are produced and reproduced, both through the creation of criminal justice policy and through interactions between battered women and criminal justice system professionals. (However, my examination of



domestic violence discourse is not just limited to the criminal justice system, given that a variety of other social institutions have participated in the creation of this discourse). Tamar Pitch (1995) writes:

Various theoretical schools see social control as productive of consciousness, personality, identity, organization and as implying complex processes of interaction. Social control involves therefore not only the macro processes of social organization and social integration, but also the micro processes which...produce consensus or shared meanings as an end result." (pp. 13-14)

I hope to illuminate the relationship between these macro and micro processes that are involved in the state's attempts at controlling domestic violence. I explore how institutional discourses created through the criminalization of domestic violence shape identity and patterns of interaction—or, more specifically—the understandings that both battered women and agents of the criminal justice system have of themselves and each other. I argue that it is these discursive practices that allow for the creation of “institutional selves” necessary to “conduct institutional business” (Spencer, 2001, p. 158).

This work also addresses important questions about when and how feminists should engage with the state over the issue of violence against women. In particular, my research highlights tensions in feminist lawmaking over what Schneider (2000) terms “particularity” and “generality.” As she argues, it is important for the law to accurately capture the complexity of women's experiences, while simultaneously exploring the “general dimensions” of woman battering, recognizing: “first, that it is a facet of women's subordination in society; and second, that it is linked to larger problems of societal violence” (p. 59). However, as I will demonstrate, both the structure of the criminal justice system and the ways in which domestic violence has



been constructed have, in many ways, prevented this, and battered women have suffered the consequences.

### **Review of the literature**

This work draws from four bodies of diverse--yet often interconnected and overlapping--literatures. They include: (1) discourse analysis; (2) poststructural feminism; (3) symbolic interactionism; and (4) feminist sociological and criminological approaches to domestic violence. In the next several sections, I will discuss each of these literatures and the ways in which they inform my work.

#### Discourse Theory/Analysis

In recent decades, many theorists have demonstrated the benefits of discourse analysis in examining various aspects of social life. While such an approach is generally attributed to Foucault, it serves as the basis for the work of theorists and researchers in a number of different disciplines. Discourse analysis considers discourse to be much broader than just language or communication between people; instead, it is conceived as "the structured ways of knowing which are both produced in, and the shapers of, culture" (Ransom, 1993, p. 123). Thus, discourse provides a framework for viewing particular aspects of the social (Little, 1999).

Discourse is institutionalized in the practices of everyday life and as such, discourse analysis employs a somewhat unique view of power. According to Foucault, power is "coextensive with knowledge; where there is one, there is the other" (Ransom, 1993, p. 129). Little's (1999) interpretation of Foucault's conception of power reads as follows:

Power is not possessed, but exercised. It does not emanate from a dominant

social group, but comes from everywhere. Because power is everywhere, Foucault can also assert that resistance is everywhere (1980a, 96). The goal of resistance is not to wrest some finite amount of power from another group; it is to produce an alternative power-laden discourse. (p. 164)

Thus, discourses, as are power sites, are plural and contested. According to Ransom (1993), Foucault rejects "the idea of history as a process with a purpose" and instead looks at social reality as fragmented and inextricably connected to power relations (p. 124). Because this perspective challenges and recasts traditional historical understandings, it is interconnected with postmodernist traditions of thought.

Discourse also constructs subjectivity (Little, 1999). Examinations of social discourse help to illuminate "the narrative conventions available for constructing the individual and collective stories that are constitutive of people's social identities" (Fraser, 1989, p. 165). Instead of viewing a particular identity as grounded in nature or some other essential condition, this perspective views identity as historically, culturally, and politically constructed (Hall, 1996; Davis and Fisher, 1993; Butler and Scott, 1992). Theorists such as Hall (1996), Butler (1992), and Scott (1992) argue that people are not just situated by various discourses but also are constituted by, and constitute themselves in the language of, such discourses (Butler, 1992). As such, the subject is not only represented by discourse, but discourse produces and gives meaning to the subject. Hall (1996) writes:

...how things are represented and the 'machineries' and regimes of representation in a culture do play a *constitutive*, and not merely a reflexive, after-the-event, role. This gives questions of culture and ideology, and the scenarios of representation—subjectivity, identity, politics—a formative, not merely an expressive, place in the constitution of social and political life. (p. 443)

Dominant cultural discourses then, in many ways, shape and even limit the actions available to those who occupy particular identities. For example, Deborah Little (1999), building on work by Fraser and Gordon, illustrates how dependency discourse in U.S. welfare policy "constructs a limited field of possibilities for participants" and results in the stigmatization of welfare recipients (p. 164). Many theorists refer to this as the process of hegemony, a term used by Antonio Gramsci to describe the discursive construction of power (Fraser, 1997). As Fraser (1997) states, hegemony "is the power to establish the 'common sense' ...of a society, the fund of self-evident descriptions of social reality that normally go without saying" which includes "the power to establish authoritative definitions of social situations and social needs, the power to define the universe of legitimate disagreement, and the power to shape the political agenda" (p. 153).

Viewing identity as discursively constructed does not mean, however, that identities are unified, determined, or fixed; in fact, quite the contrary is true. As Scott (1992) argues:

Treating the emergence of a new identity as a discursive event is not to introduce a new form of linguistic determinism.....It is to refuse a separation between 'experience' and language and to insist instead on the productive quality of discourse. Subjects are constituted discursively, but there are conflicts among discursive systems, contradictions within any of them, multiple meanings possible for the concepts they deploy. (p. 34)

Fraser (1989) argues that there are rival interpretations of people's needs in capitalist welfare states, among which are: needs discourses from "experts" such as social workers and policy makers; needs discourses originating from various oppositional movements (e.g. welfare clients or people of color); and "reprivatization" discourses

of constituencies who wish to send needs that have been newly problematized in the public sphere back to the private realm (p. 157). Thus, as Fraser demonstrates, because discourses are multiple, fluid, and often contradictory, so are the identities constituted by them.

However, while identities are not fixed and given, we cannot ignore the impact and effects of the way in which identity is discursively constructed; often, particular discourses construct identity as if it *is* inflexible and determined. Fraser (1989) reminds us that the identities constituted by various discourses are actually "highly political interpretations"; yet, because they are often not recognized as such they are assumed to be "real" (pp. 153-154).<sup>2</sup> As both Fraser and Gordon (1994) and Little (1999) illustrate in their examinations of dependency discourse in U.S. welfare policy, an analysis of the way in which identities are discursively constituted can serve to challenge essentialized notions of identity, and allow for recognition that social identities are constructed in specific historical, social and cultural contexts.

We should also not assume that discursively constructed identities are never challenged or resisted. As we have seen, Foucault argues that "discourses create the capacity for resistance within themselves because they are multiple and contradictory" (Little, 1999, p. 164). Fraser (1989) shows through her "needs talk" analysis, that competing discourses have varied degrees of cultural legitimacy:

Some ways of talking about needs are institutionalized in the central arena of late capitalist societies: parliaments, academies, courts, and the mass circulation media. Other ways of talking about needs are enclaved as subcultural sociolects and normally excluded from the central discursive arenas. (p. 165)

Thus, while some discourses are hegemonic, disproportionately influenced by the interests of the social and political elite, other discourses may be counterhegemonic (or "counterdiscourses") and serve to resist or challenge mainstream interpretations. As Hall (1988) argues, hegemony always implies "the struggle to contest and disorganize an existing political formation" (p. 7). Individuals may draw, then, from competing discourses in an attempt to construct, solidify, alter, or resist their identities (Fraser, 1997).

A central method employed through discourse analysis is "genealogy." As Bacchi (1999) states, "genealogy is recommended as a technique to historicize claims to knowledge, indicating shifts in thinking and acting around particular issues" (pp. 40-41). Foucault used this approach to examine broad discourses of sexuality, medicine and criminology, but it may also be used to focus upon more narrow categories of analysis, in an attempt to examine the historical, cultural and political conditions that led to their emergence (see, for example, Bacchi, 2001).

Several theorists have debated whether Foucault's genealogy allows for an explicit normative political analysis, arguing that any failure to do so would reflect a shortcoming of his work (Fraser, 1989; Ransom, 1993). Fraser (1989) has maintained that normative evaluation is an important, even necessary, part of the genealogical method. Demonstrating a commitment to a distinction between legitimate and illegitimate forms of power, she illustrates the value of discourse analysis. In an attempt to examine and understand the complexities surrounding "needs talk" in late capitalist welfare state societies, she makes her focus of inquiry not needs themselves, but discourses about needs. Fraser maintains that this approach provides, among

other things, better access to understanding how various discourses position people “as specific sorts of subjects endowed with specific sorts of capacities for action; for example as ‘normal’ or ‘deviant,’ as causally conditioned or freely self-determining, as victims or as potential activists, as unique activists, as unique individuals or as members of social groups” (p. 165). Fraser and Gordon (1994) build on this approach to provide a critical genealogy of dependency discourse in the U.S. welfare reform debate. They state:

By historicizing “dependency,” we aim to defamiliarize it, to render explicit assumptions and connotations that usually go without saying (e.g. assumptions about human nature, gender roles, the causes of poverty, the sources of entitlement, and what counts as work and as a contribution to society). (p. 5).

Fraser and Gordon use this method to contribute to a more thorough understanding of contemporary debates surrounding U.S. welfare policy.

Many theorists have also argued that it is important to look at social policy as a form of discourse (see, for example, Bacchi, 1999 and Pitch, 1995). Such a perspective focuses on the production of meaning in the policy making process.

Attention is given to the ways in which “arguments are structured, and objects and subjects are constituted in language” (Bacchi, 1999, p. 41). A discursive analysis of public policy looks not just at what can be said and thought, but also at who can speak, when, where and with what authority (Ball, 1990, p. 17). According to Bacchi (1999), when policy is viewed as discourse, there are three categories of effects that must be examined: (1) the ways in which subjects and subjectivities are constituted in discourse; (2) the effects following from the limits imposed on what can be said; and (3) the ‘lived effects’—or the material, real-world implications.



Discourse analysis is central to my work. I examine how mainstream discourses surrounding women's victimization, broadly, and domestic violence, more specifically, have constituted and represented battered women. In Chapter Three, I perform a genealogy of the concept of "battered woman," examining the cultural and social forces that have created and shaped this social identity, paying particular attention to shifts over time. Central to this process, is Bacchi's (1999) view that policy is a form of discourse. Criminal justice policy has been a major site for the production of dominant cultural meanings surrounding domestic violence. A thorough examination of domestic violence discourses in the criminal justice system reveals the ways that such discourses situate the social "players" in domestic violence cases and shape or limit the words and actions of these players (for my purposes, prosecutors and victims of abuse). Finally, drawing on the discursive conception of subjectivity in which identities are never unified, fixed, or unchallenged, I examine how battered women may utilize both hegemonic and counter discourses to construct their identity.

#### Poststructuralist Feminist Theory

Grounded in discursive approaches to subjectivity and identity, a somewhat recent strain of feminist theorizing has also questioned traditional conceptions of the subject. Often referred to as postmodern or poststructuralist feminist theory,<sup>3</sup> this perspective critiques earlier strands of feminist theory's practice of taking gender as a given and fixed category of analysis (Davis and Fisher, 1993). Poststructuralist feminists maintain that the use of "woman" as an unproblematic identity is based on an assumed essential "femaleness" that does not exist. Further, such a practice not

only erases differences between different groups of women but also fails to take into account the fragmented nature of women's identities (Davis and Fisher, 1993; Charles, 1996). As Charles (1996) reminds us, "women are lovers as well as mothers, lesbians as well as workers, black as well as feminist and many of these identities conflict" (p. 9). Poststructuralist feminism deconstructs and interrogates not only the category of "woman" but all foundational concepts and identities on the basis that they are normative, and thus, exclusionary, hierarchical, and silencing (Butler and Scott, 1992; Hekman, 1995). For poststructuralist feminists, "woman" is not an essential identity, but:

"...is a fictive device—a device that is socially, historically, and discursively constructed in relationship to other categories (i.e., women/men, white women/black women). Despite their apparent link to the natural, these categories and their positions in relationship to one another are both constructed and given meaning through repeated discursive practices." (Davis and Fisher, 1993, p. 7)

Poststructuralist feminism also conceives of power in a different way than do traditional feminist theories. Davis and Fisher (1993) argue that while theories that developed during the "second-wave" of feminism (i.e. radical feminism, Marxism feminism, and socialist feminism) have been useful in their depiction of gender in terms of power, the fact that these theories attempt to root the source of that power in either capitalism, patriarchy, or both, renders them limiting in that they focus only on the way that power oppresses. There is little space allowed for the examination of ways women may negotiate at the "margins" of power, however subtle and indirect this negotiation may be. As a result, such theories "run the risk of victimizing women by representing them as the passive objects of monolithic systems of oppression" (p. 6). Davis and Fisher position these second-wave theories against a poststructuralist



feminist perspective, which rejects the possibility that one narrative can explain women's subordinate position in society, on the basis that such a perspective is essentialist and assumes an objective and knowable Reality or Truth. Additionally, the assumption that one story or narrative explains women's position also fails to acknowledge the differences between women and the diverse ways they may experience the social world.

A poststructuralist feminist position conceptualizes power in a more Foucauldian manner. Here, power cannot be viewed as inherently repressive or as only imposed in a one-way direction, but instead is productive and operates continuously in—more or less—subtle, but penetrating manners. Power is viewed as discursively constructed and thus, possibilities exist for resistance through the creation of counterdiscourses. As Davis and Fisher argue, under a poststructuralist perspective, multiple sites of resistance are allowed and what counts as political is redefined—routine daily micropractices are described as political and become sites for the investigation of power and resistance.

Feminism and poststructuralism have had a tenuous and often contested relationship. Many feminists have argued that a decentering of the subject risks undercutting the political foundations upon which feminist theory is based (Hartsock, 1990; Ransom, 1993). If the category of "woman" is deconstructed, then how might women's oppression be theorized? How can a feminist politics exist without a subject or privileged "knower"? In a related vein, other feminists are concerned about poststructuralism leading to the erasure of the body (Bordo, 1990) or to a dangerous relativism (Benhabib, 1990). Further, despite the argument by some that

poststructuralist feminism allows for a more complex examination of power and the ways in which women resist power, others have argued that under a poststructural feminist analysis, resistance and the possibility for agency actually disappears into fragmented discourses (Hartsock, 1990).

Without dismissing these criticisms, I align myself with poststructuralist feminism. Arguably, feminism's relationship to poststructuralism is a difficult one. Yet, in my work, I privilege the perspective that argues the importance of avoiding essential and unified conceptions of subjectivity, while simultaneously maintaining that agency and resistance *are* possible under poststructuralist theorizing. Nancy Fraser (1996) words are important here. She maintains that a discursive perspective in no way precludes agency; for her, it is discourse that *allows* for the possibility of human actions. In defending the method she and Gordon (1994) use, she writes:

To analyze cultural complexes of meaning...is not to deny that individuals act consciously, deliberately, and strategically, nor that they sometimes deploy such terms instrumentally to promote their own interests and goals. It is, rather, to make available for political critique the network of meanings, assumptions, and images that constitute the background and the stuff of intentional action. Far from representing a threat to agency, then, an analysis such as ours helps explain how it is possible while extending the reach of critique. (p. 531)

Similarly, Hekman (1995) maintains that feminism does not need an essential subject in order for the possibility of agency or resistance to exist. Hekman argues that feminist theories centered on an essential subject are actually *more* likely to deny women agency than those approaches utilizing a "discursive subject" because the former often conceptualize women as passive and dependent. According to her, a discursive approach allows for a more complex depiction of how power and resistance works, as it allows feminists "to describe how the feminine subject is

constructed through the multiple discursive formations of a given culture while at the same time asserting that some, although not all, of these discursive formations provide the possibility of agency" (p. 203). It is the very existence of multiple discourses that, for Hekman, allows for resistance.

Some theorists have attempted to reconcile both the approaches and epistemological critiques of feminist politics by arguing that we should position ourselves somewhere in between these two camps (Davis and Fisher, 1993; Fraser, 1989; Hartsock, 1990). According to this view, we should learn to live with and even embrace the tensions and contradictions between these approaches, as they can be seen as something to "explore" (Davis and Fisher, 1993, p. 12). Davis and Fisher maintain that the way to address problems posed by the gaps between these theories is to: (1) maintain a commitment to the examination of structural constraint while focusing on ways women resist (even if not always successfully); and, (2) maintain a commitment to the power of discursive production, while also paying close attention to the relationship between discourses and women's material reality. This is what I aim to do in this work.

Little's (1999) project examining women welfare clients' interaction with and manipulation of welfare dependency discourse serves as an excellent model for what I am trying to accomplish. She describes her goals in the following way:

...I try to tease apart these questions of the sources and processes of resistance to a hegemonic discourse. How does the institutional framework enable and constrain resistance? How does the hegemonic discourse enable and constrain resistance? What is the place of other discourses in the resistance of these women? How does their material experience of poverty and low-wage work inform their resistance? (pp. 166)

In a similar vein, I wish to examine how battered women's actions are shaped by domestic violence discourses and explore the possibility of counterhegemonic discourses they may draw from in acts of resistance. I will address, in greater detail, the explicit feminist nature of my work later in this chapter.

### Symbolic Interactionism

Yet another set of literature central to my work is rooted in symbolic interactionism. A symbolic interactionist approach to social life places human interaction at the forefront of importance. According to this perspective, human beings don't simply react to one another's actions, but they interpret or define these actions (Blumer, 1969). Thus, person A's response to person B's actions is rooted in the meanings person A attributes to person B's actions. Central to this meaning-making process, is the use of symbols or signs that may have particular cultural or social meaning.

In the 1990s, Holstein and Miller argued the importance of conceiving victimization as an "interactional phenomenon." Traditional approaches to victimization assume victim status is inherent to particular persons in particular situations. However, under an interactionist framework, the social processes through which a person is *categorized* a "victim" become central. People are not inherently "victims," but rather victim status is "conferred upon them as they are interpreted, organized, and represented through social interaction" (Holstein and Miller, 1997, p. 26). Victimization provides "interpretive instructions" that dictate how a victim should be perceived and involves both discursive constructions of victims *and* interactional processes. For Holstein and Miller, victim descriptions have several

characteristics. They are reflexive in that "they both instruct observers in how to appreciate the situationally specific meanings of persons as 'victims' and simultaneously invoke and create those meanings" (p. 27). They are indexical, "taking their sense and meaning from the occasions of their production" (p. 27). And, lastly, they are rhetorical: "partisan activity intended to persuade others to adopt and act on preferred understandings of persons and circumstances" (p. 27).

Thus, the process of the assignment of a victim identity is based both on existing public constructions of victims and the ways in which individuals derive meaning from these constructions and act on them. This process is often complex, particularly given that it involves establishing issues of blame and responsibility, injury, and possible responses and solutions. Holstein and Miller (1997) argue that naming a person a victim "encourages others to see how the labeled person has been harmed by forces beyond his or her control, simultaneously establishing the 'fact' of injury and locating responsibility for the damage outside the 'victim'" (p. 29).

Further, it often entitles a person to compensation, retribution, and/or assistance. However, as Holstein and Miller remind us, because victim assignments are always open-ended, they may be sites of contestation and negotiation: "Disagreements about assignments of victim status may become conflicts in which the assignments are openly disputed. Both injury and responsibility may be at stake in such disputes" (p. 37). As Dunn (2001) argues, the identity of "victim" is always contingent and involves "assessments and evaluations of moral worth" (p. 289). Thus, this process can, at times, be highly charged.

Loseke (2001) uses the term "identity work" to describe the process of people categorizing themselves and their lived experiences in the terms of a particular identity. According to Gubrium and Holstein (2001), social institutions offer "a striking panorama of discursive environments for identity work," particularly surrounding troubled identities such as "victim" or "battered woman." (p. 13). Dunn's (2000) work serves as an example of the identity work of a particular type of victim in a particular institutional context. She demonstrates that "stalking victim" is often a very difficult identity to achieve and maintain: "Stalking victims' struggles to claim victimization take place within a historical, cultural, and organization context shaped by multiple perspectives on what it means to be a 'true' victim" (p. 287). However, as she argues, "victim" is a problematic identity in the criminal justice system and thus, women claiming to be stalking victims have to present themselves in a particular—and believable—manner, lest they lose credibility. Achieving believability often means meeting particular normative expectations, particularly those surrounding gender.

Examining the complexity of the interactional processes surrounding victimization is central to my work, as I examine the identity work of a specific group of victims: battered women. From an interactionist perspective, the consequences of victimization for abused women extend beyond the women's actual experiences with violence—they also involve the impact of becoming a "battered woman," or, more broadly, a "victim." My work is an attempt to comprehend how abused women make sense of this process, particularly in the context of the criminal justice system. Following Holstein and Miller (1997), I view the process of assigning "victim status"



as an interactional and descriptive practice. Such a perspective provides broader possibilities for understanding the meaning-making processes battered women and criminal justice system professionals employ. Battered women may draw meaning about themselves through a variety of social phenomena. Arguably, of most importance here are both dominant cultural constructions of battered women and victims and the women's communication with others: interactions with their abusers, including instances of violence and abuse; interactions with friends and family; and interactions with criminal justice system members and social service workers. All of these may influence an abused women's decision to claim or reject the identity of "battered woman" and/or "victim." An examination of mainstream discursive constructions of battered women as victims, particularly in the criminal justice system, comprises the first part of this dissertation. The second part of the dissertation involves an examination of the interactional processes surrounding the *effects* of these constructions for women who have experienced violence from an intimate partner. In other words, I explore how women who are abused by an intimate partner draw from cultural representations of battered women in their social relationships, in their decisions to claim or reject a victim identity, and in their experiences with the criminal justice system.

#### Feminist Sociological and Criminological Approaches to Domestic Violence

The fourth and final set of literature I use in my work involves feminist criminological approaches to domestic violence. I will provide only a brief introduction to this work here, as I will discuss it in more detail in Chapter Two. Feminist approaches to victimization have gained currency only in the last few

decades; historically, women were often not included in crime victimization studies (Belknap, 2001).

Caulfield and Wonders (1994) argue that there are five contributions of feminist scholarship to research and practice within criminology. The first is a focus on gender as a central organizing principle for contemporary life. As Caulfield and Wonders discuss, this does not involve merely adding women to analysis and/or exploring women's experiences in contrast to men, but understanding how social life is gendered and how this relates both to women's victimization and women's offending. The second contribution of feminism to criminology is an understanding of the importance of power in shaping social relations. Caulfield and Wonders maintain that mainstream criminology "has always had difficulty incorporating power into its analysis" (p. 218). A feminist perspective provides tools for grasping how power shapes people's lives, and in the field of criminology, this may involve examining who has the power to define the meaning of crime and related harm, and understanding the role of the state in creating and perpetuating gendered laws and criminal justice practices.

For Caulfield and Wonders, a third feminist contribution to criminology is sensitivity to the way that social context shapes human relations. They state, "to talk about the context of human lives means to recognize that people are never just one characteristic at a time" (p. 222). Thus, feminist criminological research takes into account the various structural and institutional forces that shape people's lives, particularly in the realm of the criminal justice system. A fourth feminist contribution to criminology involves the creation of research methods that recognize that all of



social reality is a developing process. Feminist research methods often differ from traditional, positivist methods:

...while dominant science views things as static, dualistically ahistorical, mechanical, and additive, feminist science, which has not lost sight of its political goal, strives for a new view of the whole societal constellation in which things appear as historical, contradictory, linked to each other, and capable of being changed." (Mies, as cited in Caulfield and Wonders, p. 223)

Caulfield and Wonders make clear that while there is no one method that is more feminist than another, feminist methods are inherently more reflexive than traditional methods of inquiry. As such, feminist researchers are critically reflective of the research process and their roles in it.

The fifth and final feminist contribution to criminology, according to Caulfield and Wonders, is a commitment to social change. An important part of feminist scholarship is linking theory to action. As Caulfield and Wonders point out, many feminists study the world in order to change it. Feminist criminological research efforts to bring about social change have been centered on things such as changing law and public policy and education. Of particular note, are several feminist research projects that "have been explicitly linked to efforts to change criminal justice in light of new information on the ways that gender, power, social context, and process issues shape criminal justice outcomes" (p. 226).

The five principles outlined above have been highly instrumental to the process in which domestic violence came to be viewed as a social problem. Domestic violence, like virtually all other types of women's victimization, was not recognized as a considerable social and legal problem until the 1970s (Belknap, 2001). It was at this time that the battered women's movement, rooted in the second wave of the

feminist movement, took shape in the United States and drew increased attention to the issue of domestic violence (Schechter, 1982). According to Schechter (1982):

The emerging feminist movement painstakingly detailed the conditions of daily life that would allow women to call themselves battered. A fundamental assertion of the movement, women's right to control their bodies and lives, and one of its practical applications, women's hotlines and crisis centers, provided a context for battered women to speak out and ask for help. (p. 29)

The battered women's movement, at its original inception, was explicitly political; it rejected both biological and individualistic explanations of domestic violence and instead argued that we must be aware of the ways in which domestic violence is tied to asymmetrical power relations—particularly gender relations—both in the home and in society at large. However, as Schechter acknowledges, while ideology played a major role in the movement's origins, it was not always a primary or spoken one. Further, she maintains that women in the battered women's movement did not always agree on the meaning or implications of feminism. While some women in the battered women's movement focused on women's rights, others focused on women's oppression and a critique of patriarchy. As Schechter states, "For women of all races and classes, for feminists and nonfeminists, for professionals and activists, reasons for joining the battered women's movement were and are complex" (p. 51).

Out of the battered women's movement arose many social and legal reforms surrounding domestic violence (which I will discuss more specifically in Chapter Two). The terms used to describe domestic violence have changed over the years, often in response to various feminist groups' attempts to shift the language used to "frame" the problem in recognition that each term expresses a specific social/political meaning (Bacchi, 1999). As Schneider (2000) states, "Feminists have long struggled

over the characterization of the problem as 'domestic violence,' 'family violence,' 'spouse abuse,' and 'woman abuse,' and recognized that each of these terms is limited, problematic, and provides only a partial description" (p. 45). Further, Belknap (2001) argues that the term "domestic violence" is very broad and risks lumping intimate partner violence together with issues such as child abuse and elder abuse. The use of terms such as "spouse abuse" and "family" "hides the fact that women are the victims and men are the perpetrators approximately 95 percent of the time" (Belknap, 2001, p. 267).<sup>4</sup> Finally, the term "wife abuse" restricts the definition to include only those couples who are married. For these reasons, in this work, I will primarily use the term "woman battering."<sup>5</sup>

Along with debate surrounding definitions of intimate partner violence, comes debate surrounding both the frequency and gendered nature of battering. Although, as previously stated, most research finds that men are the aggressors in approximately 95 percent of battering relationships (Belknap, 2001), some researchers argue that women are often as violent as men (see, for example, Straus and Gelles, 2001). Belknap (2001) provides a detailed discussion of this controversy. She maintains that much of the discrepancy in findings is based upon differences in sampling and the survey questions. At the center of this debate, is a measurement instrument called the Conflict Tactic Scale, which many feminist researchers have argued is a problematic means of measuring battering: "Specifically, the CTS oversimplifies the complexities of battering, focusing solely on behaviors and ignoring consequences of the social contexts in which the behaviors occur and their meaning to the victims and the offender" (p. 273). As Belknap demonstrates, because of the problems with this

measurement instrument, the majority of researchers in this field are critical of research that reveals gender parity in intimate partner violence and agree that battering is a strongly gendered phenomenon.<sup>6</sup>

Feminist criminological research has contributed much to our understanding of the prevalence of domestic violence. While estimates of the number of women who are assaulted at some point in their lives by husband or boyfriend vary, most studies find fairly high prevalence rates--from around 25% of women to as many half (Belknap, 2001; Eigenberg, 2001a). Again, one of the difficulties in measuring the frequency of woman battering stems from differences in definition. Feminist researchers have developed four categories of battering (Belknap, 2001). They are: physical battering, or all forms of nonsexual physical violence; sexual battering, including all forms of sexual assault; psychological battering, where the offender "threatens, demeans, or otherwise discredits the victim"; and finally, the destruction of pets and property (p. 269). While some disagreement exists over which of these forms of violence must take place for a woman to be battered, the development of these categories was an important achievement for feminist researchers. It illustrates that, contrary to popular belief, battering is not just physical abuse but involves other aspects of power, domination, and control.

Along with feminist criminological approaches to woman battering within heterosexual couples, I share several assumptions: that woman battering is a fairly common phenomenon which must be understood within a specific historical and social context; that men are most likely to be the batterers; that issues of power are central to fully understanding all aspects of woman battering; that issues of "framing"

or defining are very relevant to how we understand and/or study woman battering; and that woman battering is not merely characterized by physical abuse, but involves a wide range of actions and behaviors, including emotional and verbal abuse. These assumptions form the basis of this work.

### Summary

The four bodies of literature I have just reviewed that are central to my project are often, on a theoretical level, discussed separately, despite occasional overlap between them. Certainly, it is difficult (if not impossible) to talk about battered women as any type of cohesive group (as feminist criminologists often do) while simultaneously heeding poststructuralism's warning to avoid the dangers of foundationalist categories. The moment one invokes the term "battered woman," she traipses into essentialist territory. However, the very goal of my work is to challenge unified constructions of battered women and to this end, poststructuralism serves a useful and important function. I believe that weaving together discourse analysis, poststructuralism, symbolic interactionism, and feminism only serves to provide my work with theoretical and methodological richness. By providing an examination of the ways in which discursive constructions enable and constrain battered women's real world experiences and actions, I hope to demonstrate that, "negotiating at the margins" (to borrow Fisher and Davis's (1993) phrase) of discourse and materiality, of power and resistance, is not only possible, but is necessary to provide a more complete picture of the way power, resistance, and control operate at the place where the lives of battered women intersect with the criminal justice system.

### **Research Methods, Methodology, and Epistemology**

Harding (1987) makes an important distinction between method and methodology. She defines 'method' as a specific technique for gathering evidence, and 'methodology' as "a theory and analysis of the special ways in which the general structure of theory finds its application in particular scientific disciplines" (p. 24). There has been much discussion surrounding what actually constitutes feminist research (see, for example, Jayaratne and Stewart, 1991). Debate at one point centered on whether some methods were inherently more "feminist" than others. Several researchers have argued that qualitative methods are in some ways more useful to feminist research in that they "do not break living connections in the way that quantitative methods do" (Mies, 1991, p. 67). However, most researchers have acknowledged that both quantitative and qualitative methods have proven useful for feminist research (Cook and Fonow, 1990; Harding, 1987; Jayaratne and Stewart, 1991). Indeed, both methods have contributed positively to research surrounding woman battering. Quantitative methods have provided us with startling statistics and prevalence rates that have given us a better idea of the scope of domestic violence, while qualitative methods have illuminated battered women's experiences and have given women more of an opportunity to speak for themselves (although this speech is still subject to researcher intervention).

Thus, as Harding (1987) concludes, it is more useful to look to methodology (as opposed to method) in order to unearth what is distinctive about feminist research. Most researchers now speak of feminist principles of research or feminist epistemological issues, instead of looking at a specific feminist method (Acker,



Barry, and Esseveld, 1991; Cook and Fonow, 1990; Harding, 1997; Jayaratne and Stewart, 1991; Kirsch, 1999). As Kirsch (1999) states, "it is a feminist perspective, including a commitment to improve women's lives and to eliminate inequalities between researchers and participants that characterizes feminist research" (p.5). In the next two sections I will first present the methods I utilized in my research and will then discuss the methodological and epistemological underpinnings of my work.

### Methods

Despite the usefulness of both quantitative and qualitative methods in a feminist examination of woman battering, qualitative methods were best suited for the purposes of my specific project. According to Mason (1996), researchers may use qualitative interviewing for several reasons: (1) for an ontological position which "suggests that people's knowledge, views, understandings, interpretations, experiences, and interactions are meaningful properties" of social reality; and (2) for an epistemological position which "suggests that a legitimate way to generate data on these ontological positions is to interact with people, to talk to them, to listen to them, and to gain access to their accounts and articulations" (pp. 39-40). My use of qualitative interviewing is rooted in both of these positions. In order to more fully understand how battered women make sense of their own experiences and the violence in their lives, and to explore the meanings given to concepts such as "battered woman" and "victim" by both workers in the criminal justice system and battered women themselves, open-ended interview questions were necessary.

The data in this study are drawn from several sources: (1) structured interviews with prosecutors of domestic violence cases; and (2) in-depth, semi-

structured interviews with women who experienced violence in the context of a heterosexual intimate partner relationship. The research took place in three jurisdictions: the prosecutor interviews were conducted in all three jurisdictions, while the interviews with battered women were conducted in two of the jurisdictions. The first jurisdiction is centered in a Midwestern county, "Easton Count," that includes a medium-sized industrial city. Easton County has approximately 279,320 residents. Around 79.5% of the residents are White non-Hispanic, 10.9% are Black/African American, 5.8 % are Hispanic/Latino, 3.7% are Asian, and less than 1% are American Indian. The median household income in Easton County is about \$40,774 (U.S. Census Bureau, 2000). The second jurisdiction is located in Western "Rockford County," that includes an affluent college town. The population of this county is around 291,000 residents. Approximately 83.6% of the residents are White non-Hispanic, 10.5% are of Hispanic/Latino origin, 3.1% are Asian, and less than 1% each are Black/African American and American Indian. The median household income in Rockford County is around \$55,500 (U.S. Census Bureau, 2000); however, this figure disguises significant extremes of affluence and poverty. The third jurisdiction is a large metropolitan city in the West, "Lanville." The population in the city of Lanville is around 550,000 people. Around 65% of the residents are White non-Hispanic, 31.7 % are Hispanic/Latino 11.1% are Black/African American, 2.8% are Asian, and 1.3% are American Indian. The median household income in Lanville is about \$39,500 (U.S. Census Bureau, 2000).

The interviews with the prosecutors were conducted as part of a larger project, funded by the National Institute of Justice, for which I served as a research assistant.



Six prosecutors were interviewed from the prosecutor's office in Easton County, three prosecutors were interviewed from the district attorney's office in Rockford County, four from the district attorney's office in Lanville, and eight from the city attorney's office in Lanville.<sup>7</sup> Interviews with the prosecutors were, for the most part, conducted by me or by two other research assistants working on the project.

Interviews were based on a structured schedule, developed by the project's principal investigator (see Appendix A). They were not taped, but interviewers took detailed notes and transcribed them immediately after completing each interview. The major objective of the prosecutor interviews (for the original project) was to determine the prosecutors' perceptions of the criminal justice system's response to battering and victims' needs. The goals of the project were:

...to have the prosecutors identify what they look for in cases, what makes a "good case," the process they use in prosecuting cases, how many prosecutors work with each victim/witness, how they decide whether to prosecute a case (i.e., what variables they use to make a decision), how they handle victim/witness reluctance, what they do to encourage victim/witness cooperation, and how they make decisions about what evidence to use in the court case..." (Belknap, Sullivan and Fleury, 1998, pp. 20-21)

While I did not have control over what questions were asked during these interviews, I believe the resulting data serve my purpose of examining how prosecutors who work with domestic violence view and relate to battered women. As I have previously discussed, from an interactionist perspective, people are not inherently "victims," but rather victim status is given to them as they are interpreted and represented through social interaction (Holstein and Miller, 1997). Prosecutors, as agents of the state, are highly influential in determining which women are considered legitimate "victims" and they may draw on, shape, and/or challenge

mainstream domestic violence discourses in this process. Thus, obtaining their perspective is important when examining how the criminal justice system participates in the discursive construction of the "battered woman."

The bulk of my data comes from interviews conducted with 40 women, all of whom reported experiencing violence in the context of a heterosexual intimate relationship (one woman also reported experiencing violence in a same-sex intimate relationship). Because I was interested in exploring women's experiences with the criminal justice system, requirement for participation in the study was prior involvement with the court system as a result of domestic violence.<sup>8</sup> The interviews with these women were conducted primarily in the spring of 2002. All of the interviews took place in either Rockford County or Lanville.<sup>9</sup> Five of the interviewees were recruited from the original National Institute of Justice project on which I worked. I recruited the remaining 35 interviewees via several methods in both Rockford County and Lanville: in Lanville, flyers were sent to women shortly after the first phase of their court case concluded (see Appendix B); flyers were posted at five different shelters for battered women in both Rockford County and Lanville; and I attended several support group meetings for battered women held in Rockford County to briefly discuss my research. If a woman was interested in participation, she called me to discuss the study and possibly schedule a time to meet.

Each interviewee was paid \$30.00 for her participation. While paying respondents has been used as a means of increasing participation in survey research (Heberlein and Baumgartner, 1978), it is less common in qualitative research. However, feminist researchers and others have argued the importance of recognizing

that economically disadvantaged populations may be less likely to participate in social research if doing so takes valuable time away from other important activities (Thompson, 1996; Cannon, Higginbotham, and Leung, 1991). Thus, as Thompson (1996) argues, payments may help avoid bias in social research "which might have resulted from the omission of those who declined to participate because they put a greater value on their time, energy and views" (p. 5). I viewed payment as a means of compensating the women I interviewed for possible costs involved in participation such as child care, time away from work, parking, and/or bus fare. Clearly, a potential disadvantage to this was that some women may have been less interested in being interviewed than they were in obtaining \$30 (certainly understandable given some of their dire economic situations). However, I believe that I obtained a more diverse respondent pool—in terms of both racial and economic backgrounds—due to the fact that respondents were compensated for their time.

The interviewees ranged in age from twenty-one to fifty-eight, with a mean age of thirty-two. The sample is racially and ethnically diverse: 57 percent of the women were Caucasian and 43 percent of the women were African-American (11), Hispanic (2), Native-American (1) or interracial (3). The women were not directly asked about their sexual orientation; however, as previously stated, all of the women had been in abusive relationships with men and one also reported being in an abusive relationship with a woman.<sup>10</sup>

The annual household incomes of the women ranged from zero (several of the women were homeless and staying at a shelter or living with friends or family) to over \$55,000; the median annual household income was \$10,800. This falls far

below \$47,203.00, the median annual household income for all households in the state where the research was conducted (U.S. Census Bureau, 2000).

Interviews took place in settings chosen by the participants. The majority of women were interviewed in their homes, but many interviews also took place in public settings (some of which offered more privacy than others), including: public library study rooms, meeting rooms of social service organizations, parks, and restaurants or coffee shops. I used both narrative (Riessman, 1993) and semistructured interviewing (Mason, 1996) approaches. The former allowed me to understand the role of violence in each woman's lives and grasp how they made sense of it and the latter helped to achieve consistency and allow for comparison of the interviewee's answers on specific topics. All interviews were face-to-face and were tape-recorded, with the interviewees' permission. Each interview began with a series of questions to obtain demographic information (e.g. race, age, income). I then asked each woman to tell me her "story" and discuss the history of her relationship and her experiences with violence. After this, I asked each woman specific questions from an interview guide about her experiences and involvement with the criminal justice system (see Appendix C). While, for the most part, each woman was asked all of the questions from the interview guide, the interviews often went in different directions depending on the women's individual circumstances, and frequently, additional questions were asked. I collected data on a wide range of topics, including specifics of the participants' contact with the police and the courts, the details and outcome of their cases, their thoughts on the criminal justice system process, and the impact their experiences had on their actions and their view of themselves. I also asked the

women what the terms "battered woman" and "victim" meant to them and to discuss if, and how, they related to these terms. The interviews ranged from thirty minutes to over two hours.

The sensitive nature of this topic, coupled with the fact that many of the interviews were conducted in public, posed several problems. At times, the lack of privacy clearly impacted the research. Many of the interviews took place in areas where some of the women seemed less than comfortable using certain language or providing specific details of their experiences. I interviewed one woman at her parents' house, and although they were upstairs, she whispered during the entire interview since they were not aware of her experiences with her abusive fiancé; as a result of her whispering, my tape recorder did not pick up any of her words, and my notes after the interview suffered from the usual limitations of memory-based note taking. Other times, when interviews were conducted at bars or restaurants, it was difficult to hear the respondents' voices on my tapes due to loud background noise. Finally, due to lack of childcare, sometimes the women's children were present during the interviews and this occasionally posed problems such as children crying loudly on the tapes, and/or women not feeling comfortable being candid in front of their children.

Charmaz (2000) argues that qualitative researchers should gather "extensive amounts of rich data" (p. 514). Many ethnographic researchers advocate for on-going relationships between the researcher and their interviewees, and/or multiple interviews in an attempt to gather such data (see, for example, Heyl, 2001). Conducting multiple interviews with battered women is difficult as they are known to

be a highly mobile population. Indeed, many of the women in my study did not have permanent addresses and moved around quite frequently. One of the women I interviewed was in the process of "going underground" and changing her legal identity in an attempt to escape from her abuser. This, combined with financial and time constraints, made it difficult, if not impossible, to conduct multiple interviews. However, I tried to obtain as much detail as possible in the interviews I did conduct in an attempt to gather a large amount of data.

I analyzed my data using a combined grounded theory (see Charmaz, 2000) and narrative analysis (Cortazzi, 2001; Riessman, 1993) approach. According to a grounded theory perspective, theory development occurs throughout the research process: "the researcher's interpretations of data shape his or her emergent codes in grounded theory" (Charmaz, 2000, p. 514). For my initial research project, I was interested in exploring women's experiences with the criminal justice system. As I began the interviews, I noticed that while discussing their experiences and feelings, at various times, many of the women seemed to claim or reject the identities of "victim" and/or "battered women." Some did both; one of the first women I interviewed, repeatedly referred to herself as a "victim" throughout the interview, yet emphatically explained why she was *not* a victim when directly asked. I was interested in this contradiction and, using a grounded theory approach, began incorporating questions into the interview process in an attempt to explore the identity claims of the women in more depth.

Narrative analysis involves conceiving of the interviewees' stories, and the retelling of those stories by the researcher, as narratives or "structures of knowledge



and storied ways of knowing” (Cortazzi, 2001, p. 384). According to Cortazzi, most narratives go beyond the mere reporting of events but also provide the meaning, relevance, and significance of the events from the teller’s point of view. As Riessman (1993) points out, “narrators indicate the terms on which they request to be interpreted by the styles of telling they choose. Something said in a whisper, after a long pause, has a different import than the same words said loudly, without a pause (pp. 19-20). Cortazzi maintains that narratives may be divided into at least three major structural categories:

....an event structure, which reports happenings; a description structure, which gives background information on time, place, people and context necessary to understand the narrative; and an evaluation structure, which shows the point of telling the narrative by presenting the speaker’s perspective or judgment on the events, marking off the most important part. (pp. 384-385)

Through careful examination of these categories, the researcher is given better access to the way in which the interviewee interprets and makes sense of their experiences.

Drawing from these two approaches, after each interview was transcribed, I hand-coded the data and conceptual codes and categories began to emerge. Following Charmaz’s (2000) discussion, these codes were kept “active” during the coding process; while I made extensive comparisons within and between interviews, the categories often shifted and changed. After lengthy analysis, concrete categories emerged and I developed a theoretical framework. According to narrative analysis, the researcher uses both the narratives of the interviewees and other data to construct an overall meaning or interpretation: “the analyst selects, categorizes, analyzes (and) interprets the data with much re-reading, and therefore, re-interpreting” (Cortazzi, 2001, p. 389). Because the researcher shapes the narratives of the interviewees using

her own interpretation in the final analysis stage, narrative research is a complex process and is "multi-layered in interpretation" (p. 389). Thus, a problem I faced was making sure my final analysis (or narrative) stayed true to the narratives of the women I interviewed.

### Methodology and Epistemology

As previously stated, my research is rooted in feminist methodology. One of the most important aspects of feminist research--and this holds true for my own work--is obtaining and validating women's voices, perspectives, and experiences (Harding, 1987; Kirsch, 1999). Much of the existing domestic violence research has only examined the perspectives of those who work with battered women. For example, the bulk of research examining battered women's "cooperation" with the system has historically focused on the perceptions and attitudes of court officials and utilized data such as police and court reports, as opposed to gathering data from the women themselves (for more discussion, see Erez and Belknap, 1998). While court officials and police officers have assumed that battered women fail to cooperate out of a loyalty to their batterer, battered women themselves report they often refuse to cooperate with the prosecution of their batterer out of fear (Erez and Belknap, 1998; Hart, 1996; McLeod, 1983). A failure to obtain battered women's perspective not only renders them invisible, but also results in a distorted, one-sided, and inaccurate picture of issues surrounding domestic violence.

However, research that does attempt to capture women's voices is not problem-free. A possible issue with any social research concerns how the researcher represents her/his subjects. There are potential problems in speaking for others,



including the dangers of appropriating, misinterpreting, or distorting another person's speech or experiences (Alcoff, 1991-2; Rosga, 2001). As Acker, Barry, and Esseveld (1991) ask, "How do we explain the lives of others without violating their reality?" (p. 142). This poses a difficult problem for researchers—on one hand it is important to present women's lives as seen and made sense of by them, but on the other hand it is important to provide analysis. Lal (1996) argues that we should "listen to" and not just "talk with" our subjects, for, "otherwise we risk getting into the trap of just giving voice to subjugated positions, which, as we well know, are never innocent" (p. 205). Instead, she maintains that we need to reflectively listen to interviewees by paying attention to their self-presentations, contradictions, silences and resistances.

The issue of representation has particular relevance to research on battered women. While recognizing and examining the ways in which social structures are constraining and limiting is vital, it is also important to avoid portraying battered women as total victims or as completely lacking comprehension or awareness of the circumstances of their lives. As Lisa Sanchez (1999) points out, "the voices of women who are considered victims have all too often been silenced and devalued, the contradictions in their narratives dismissed as 'justification,' 'rationalization,' or 'false consciousness'" (p. 53). What if a woman whom the criminal justice system has deemed a "victim" denies victim status (as more than a few women I interviewed did)? Is she in denial? Perhaps, but such an easy reading does little more than reproduce mainstream domestic violence discourses—certainly not my intent—and does little to explore or even challenge these discourses and their resulting constructions. Lal (1996) argues that by communicating to researchers how they

want to be represented, respondents actively engage in self-presentation during the research process and this must be viewed as an act of agency. She states, "if we are to be truly open to what our research subjects tell us, we must be willing to read against the grain and yet within the larger contexts that situates their responses" (p. 204). Thus, my goal was to pay careful attention to what the women I interviewed said (and what they didn't say), all along keeping in mind what I've learned about the overall social context and available discourses situating both their lives and words.

An interesting debate in feminist methodology literature has centered on the usefulness of feminist standpoint theory (see, for example, Wolf, 1996). Primarily developed by Nancy Hartsock, this approach posits that women, as inhabitants of a subjugated social location, share an "epistemologically privileged position" (Crosby, 1992, p. 132). In other words, women are better knowers, due to the very fact that they are women and as such, have a particular set of experiences--achieved through political struggle--from which to construct knowledge. However, critics of a feminist standpoint perspective are skeptical of a theory "in which knowledge follows from and leads to identity" (Crosby, 1992, p. 133). Lal (1996) does not deny that epistemic privilege plays "an important political role in accounting for the implications of categorical aspects of identities...in the production of knowledge" (p. 198). However, she also cautions that assuming such representations to be the true, innocent, and natural outcomes of this identity is problematic:

Positing privileged epistemic standpoints from the specific ontological location of the oppressed...downplays the very real possibility that such representations can be colonialist, while simultaneously obscuring the possibility of noncolonizing representations emerging from nonsubjugated positions." (p. 133)

I share Lal's concerns. From a feminist standpoint perspective, the battered women I interviewed, due to their marginalized position(s), would be viewed as having special claims to knowledge. While certainly I would argue that each woman I interviewed is more of an authority on her experiences than I am, I do not believe that my interviewees' words were always "innocent" or representative of some grand "truth." Indeed, just as Lal points out the possibility that the knowledge of the oppressed may parallel colonialist representations, more than a few of the women I interviewed reflected racist viewpoints. While I will discuss the specific words of all of the interviewees in later chapters, my goal here is to illustrate the dangers in assuming that "the perspectives of those on the margin are less distorted rather than simply different from those not on the margin" (Wolf, 1996, pp. 13-14). Further, to assume battered women are better knowers because of their status as battered women, serves only to further entrench the identity of "battered woman," which is counter to my goal in this project. However, while I reject the idea that an epistemologically privileged position should be afforded solely on the basis of a person's identity, I do think we must recognize that those on the social margins may be more likely to have "multiple perspectives" or "multiple visions" than those not on the margins (Wolf, 1996). As Wolf (1996) discusses, a potential alternative to feminist standpoint theory is Haraway's concept of "situated knowledges." She states that situated knowledges:

reflect our locationality (historical, national, generational,) and positionality (race, gender, class, nationality, sexuality), acknowledging how the dynamics of where we are always affects our viewpoint and the production of knowledge without privileging one particular position over another, as in standpoint theory. (p. 14)

Under this view, knowledge is never fixed, but is always contingent, relational and contextualized. I approach my research from this perspective.

Just as the social position of the researched is important, so is the social position of the researcher. As Harding (1987) cautions, the social location of the researcher—including race, class, culture, beliefs and values—must be placed in the research frame. She states, “The researcher appears in these analyses not as an invisible, anonymous, disembodied voice of authority, but as a real, historical individual with concrete, specific desires and interests.....” (p. 32). Recognizing the impact that the researcher’s social location has on the research process is important. Lal (1996) urges us to engage in self-reflexivity and to deconstruct our own research experiences, “thereby rendering them nontransparent” (p. 205). Feminist researchers have tried to avoid objectification as much as possible and be aware of issues of power, authority, and control. Many researchers argue that rejecting the subject/object separation is important in order to examine ways in which the research process may obscure and reinforce the subordination of women subjects (Acker, Barry, Esseveld, 1991; Cook and Fonow, 1990). Despite the perspective of traditional, mainstream scientific methodology, for feminist researchers it is desirable to show emotion and to treat research participants as human beings. However, completely erasing the power differential between the researcher and the subjects may be impossible and thus, the risk of objectification, manipulation and betrayal always exist (Acker et al, 1991; Stacey, 1988). Wolf (1996) writes, “although feminist researchers may attempt to equalize relationships while in the field through empathic and friendly methods, these methods do not transform the researchers’

positionality or locationality" (p. 35). In the end, as Stacey (1988) reminds us, the research project ultimately belongs to the researcher.

As a white, upper middle-class, graduate student who has never experienced physical violence of any sort, in many ways I was an "outsider" to the majority of the women in my study. I will always remember the homeless woman I interviewed whom I met at a local restaurant. When I offered to buy her a cheeseburger, her eyes lit up and she told me she hadn't eaten "real food" like that in almost a year. The ability to buy a sandwich for myself is certainly something I take for granted and this experience demonstrated to me the difference between my social location and that of many of the women whom I interviewed. For sure, I cannot know how they viewed me or how who I was, in their eyes, impacted what they told me or how they presented their experiences and thoughts to me. It was clear however, that many of the women I interviewed seemed to view me as a person who had the authority and capability to help them; several women sought legal information or guidance from me. Some of them seemed to assume that I would be able to do something to help them navigate the criminal justice system and/or right some of the wrongs they had suffered. It was painful for me, and seemingly disappointing to them, when I had to tell them that I did not work for the courts and had no pull there. Many feminist researchers have stressed the importance of reciprocity during interviewing in order to address the unequal power dynamics inherent to the research process (see, for example, Acker, Barry and Esseveld, 1991). Given this, I offered support and information when I could, but also made clear to the women that I did not have legal training. When necessary, I provided women with contact information for

organizations that could better assist them. However, I left more than a few interviews with women wishing that I could have done something more to help them and regretting that I had, in some ways, not lived up to what I perceived to be their expectations of me.

While some of the women behaved as though they saw me as an authority figure of sorts, this did not preclude the majority of them from sharing their stories, often in great detail. Many of the women shared emotional, painful, and intimate elements of their lives; on many occasions, women wept as their stories unfolded. A number of the women I interviewed commented on the "therapeutic" nature of telling their stories—for many of these women, it seemed that having an interested listener was a new and most welcome experience. While certainly I was glad to be a "listener" for them as well as a researcher, the emotional and sensitive nature of the research was an issue I took seriously throughout the research process. Battered women are often in a vulnerable position. Women may feel victimized by their abuser, and possibly by the criminal justice system as well. For researchers like me, taking care not to revictimize these women even further is crucial. Battered women may have had their trust of other people violated more than a few times in their lives and as a result, trust may be an issue for them. Researchers working with battered women need to keep in mind that they are able to get up and leave at the end of the interview. As Kirsch (1999) argues, despite the fact that some feminist researchers have advocated developing a friendship with participants, relations between the researcher and the researched often abruptly end once the researcher has left. Further, discussing past experiences and abuse may be difficult for some battered women.



Kirsch reminds us of the importance of recognizing that, as researchers, we are not trained therapists. If a woman I interviewed seemed particularly troubled or in need of help, I provided her with additional resources instead of attempting to address her issues on my own.

Finally, feminist research should place an emphasis on consciousness-raising, liberation, empowerment and/or transformation (Acker, Barry, and Esseveld, 1991; Cook and Fonow, 1990; Jayaratne and Stewart, 1991; Lal, 1996). Thus, research examining domestic violence should in some way be beneficial to battered women. I hope to accomplish this through my own project via several methods: through the suggestion of policy changes; through an analysis of how the personal is political (i.e. showing that battered women's experiences are not just reflective of individual problems but are connected to larger social structures); and through an illustration that battered women's experiences are varied and complex—a challenge to mainstream representations. As I have previously discussed, much of domestic violence research addressing issues with the criminal justice system, has not specifically examined battered women's experiences. Many of the women I interviewed expressed that no one had ever really listened to them and to their side of the story. Opie (1992) argues, "when qualitative research incorporates the voices of marginal and hence previously silenced groups into the text it can become subversive along a number of fronts" (p. 64). Not only does such research give voice to the marginalized, which in itself may be empowering, but it may also counter dominant images (often misleading) about the group being researched. Thus, I hope that as a



feminist researcher, my work is not just about women but is also for women (Cook and Fonow, 1990; Mies, 1991).

## NOTES

<sup>1</sup> To highlight the fact that domestic violence discourse is *not* uniform, I will use the term "domestic violence discourses" from this point forward.

<sup>2</sup> Fraser refers to this process as the "reification effect" (p. 154).

<sup>3</sup> While the terms postmodernism and poststructuralism are often conflated and/or used interchangeably, much has been written about the (possible) differences between the two. As Agger (1991) aptly notes, the lack of clear boundaries between the two illustrates the "purposeful elusiveness" of postmodern/poststructural work. Agger classifies poststructuralism as a theory of knowledge and language, and postmodernism as a theory of society, culture, and history. While much of my work utilizes discourse analysis, which is traditionally associated with Foucault, I will be using the term poststructuralism in my writing, as a major goal of this project involves an examination of how language helps constitute and shape social reality. Let it be noted, however, that other feminists making similar arguments to my own, may refer to their position as postmodernist or as postmodern feminism.

<sup>4</sup> Recently, same-sex domestic violence has also come to be recognized as a social problem. However, studies examining both the prevalence of violence in homosexual relationships and the context in which this violence occurs have been limited and are often of poor quality. Prevalence rates vary greatly and Renzetti (1998) points out that is because no study has been able to use a random sample due to the stigma attached to homosexual relationships, obtaining a "true prevalence" rate may not be possible (p. 123). Further, several theorists have pointed out that there are key differences between heterosexual and homosexual domestic violence; for example, homophobia is inextricably connected to violence in same-sex intimate partners (Balsam, 2001; Renzetti, 1998). I acknowledge the existence of battering in same-sex intimate relationships, but wish to make clear that my analysis is limited to women battered by men.

<sup>5</sup> I will also at times use the term "domestic violence" as it is commonly found in most literatures. Further, despite the fact that the terms "battered woman" and "victim" are freighted with various meanings (which at times I problematize), I use them both for convenience.

<sup>6</sup> Susan Okin (1991) defines gender as "the social institutionalization of sexual difference; it is a concept used by those who understand not only sexual inequality but also much of sexual differentiation to be socially constructed" (p. 67). However, the use of the term "gendered" can be a bit misleading, for, as Okin points out, gender is connected to but not determined by sex difference (p. 78). By referring to the "gendered" nature of domestic violence, Belknap and others are likely flagging the process of social constructionism and suggesting that battering is *sex-specific* in heterosexual relationships. This is an important distinction, for as Renzetti (1998) maintains, "...research with victims of same-sex domestic violence shows that the abuser is not necessarily more 'masculine' than the victim in terms of physical size, appearance, or mannerisms" (p. 124). Renzetti is quick to point out, however, that we should not throw out social and cultural explanations of domestic violence simply because same-sex partner abuse does not clearly fit into our existing model of who is the batterer and who the victim. For example, she maintains that perceived power or powerlessness is strongly associated with abuse in both heterosexual and homosexual relationships.

<sup>7</sup> Specifics about these offices will be discussed in Chapter Four.

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<sup>8</sup> The majority of women in the sample (40) were involved with the court system through a criminal case (most of which involved the arrest of the woman's male partner; however, fourteen of the women reported that they, themselves, were arrested at some point). Three of the women's involvement with the court system came through filing for a restraining order. One woman had no court involvement but did have police contact.

<sup>9</sup> Even though the interviews took place in different towns, I am making no claim to regional specificity in the analyzing and reporting of my data. Themes that emerge could possibly be found anywhere, nationally, or even globally.

<sup>10</sup> Given the nature of my sample, I do not attempt to make generalizations about the nature of domestic violence in gay and lesbian relationships. While Renzetti (1998) does acknowledge some similarities in heterosexual and homosexual domestic violence (see above), she also makes clear that there are important differences between them.

## CHAPTER TWO

### **The Battered Women's Movement and the State: The Foundations of Contemporary Domestic Violence Discourses**

Contemporary domestic violence discourses originated in the early 1970s when feminists and advocates for battered women insisted upon the recognition of domestic violence as a social problem (Ferraro, 1996); these discourses have since been shaped by a number of different influences and disciplines. In Chapter Three, I will explore the implications of the ways in which the "battered woman" has been constructed. However, in this chapter, I trace the historical roots of modern domestic violence discourses by considering two of their most important sources—the battered women's movement and the criminal justice system. I will examine the histories of both the battered women's movement and the criminal justice system in relation to domestic violence, and explore the ways in which these two forces have interacted with and influenced each other over the past three decades.<sup>1</sup>

Ferraro (1996) calls domestic violence discourse "a place of struggle" (p. 79). As we will see, the battered women's movement and the criminal justice system have certainly clashed over numerous issues pertaining to domestic violence. Before turning to a discussion of the specifics of this struggle, however, contextualizing the relationship between feminists and the state more broadly is important. Feminists have "engaged with" or "negotiated" the state on a number of levels for a variety of reasons, and they have faced some major problems in doing so. In Marshall's (1997) theoretical exploration of feminists' relationship with the state, she argues that "the state" as a concept "is clearly too broad to allow a simple definition" (p. 95). While

she notes that an easy definition "casts the state as comprised of elected and administrative governmental institutions, both at the local and national levels" (p. 95) she also argues that this conception is overly simple as it fails to recognize the role of power. Marshall argues, instead, for a "gendered state" model which helps to elucidate the complex nature of the state. This model rejects the traditional assumption of state neutrality, but assumes state accessibility. Marshall writes:

The need of the state to at least appear democratic provides an opening for reform efforts. In addition, the rise of the liberal state provides the opportunity for demands for equality; the state must balance its use of power with a search for legitimation. Feminism can thus place demands upon the state which are difficult to evade without risking legitimacy. (p. 104)

For Marshall, despite the state's accessibility, it is a major participant in gender politics and serves to entrench gendered structures and assumptions into law and policy. These assumptions include "the primacy of heterosexuality as the norm, the economic dependence of women upon men, and the desirability of maintaining the traditional nuclear family" (pp. 104-405). However, Marshall makes clear that under this model, neither the state nor gender is coherent or unified: the state's power is not always stable or direct, and women's experiences are influenced by other coordinates of their social location, such as race and class. Wendy Brown's (1995) words are useful here:

Despite the almost unavoidable tendency to speak of the state as an "it," the domain we call the state is not a thing, system, or subject, but a significantly unbounded terrain of powers and techniques, an ensemble of discourses, rules, and practices, cohabiting in limited, tension-ridden, often contradictory relation with one another. (p. 174)

Rosga (1999) argues that it is this fractured nature of state power that allows activists to challenge the function of law enforcement officers and hold the state accountable

for redressing violence. As Marshall (1997) argues, the state is an incongruous resource for women: "the state...can be considered a necessary, but not sufficient, arena within which feminists must struggle for social change" (pp. 106-107).

Indeed, feminist activists historically have mobilized the state to address discrimination against and oppression of women, including violence against women. However, this has been somewhat of a double-edged sword, as Marshall's (1997) analysis of the state suggests. As we will see, traditionally the state has not only failed to take woman battering seriously, but in some circumstances it has even legitimized domestic violence. Yet, as evidenced by numerous reforms in the criminal justice system regarding domestic violence in the past several decades—some of them quite substantial—feminists and victim's advocates have clearly had significant influence in state policy and practice. I now turn to a discussion of this process.

### **The Rise of the Battered Women's Movement**

As I briefly discussed in Chapter One, domestic violence was not widely recognized as a serious social problem until the early 1970's.<sup>2</sup> Prior to the 1970's, the criminal justice system referred to domestic violence as "domestic disturbance" and social service organizations termed it "family maladjustment" (Pleck, 1987, p. 182). An article published in the 1964 edition of the *Archives of General Psychiatry* entitled "The Wifebeater's Wife: A Study of Family Interaction," (Schechter, 1982, p. 21) illustrates the absence of terms such as "battered woman" and "victim" that are now central to domestic violence discourses. At this time, domestic violence was commonly viewed as a personal or private issue—a "family problem"—and the

criminal justice system rarely became involved (Buzawa and Buzawa, 1996; Schechter, 1982).

Under this framing, women were viewed to be partially, if not completely, accountable for any violence they experienced at the hands of their spouse. As Schechter (1982) demonstrates, "victim provocation" theories, advocated by a variety of social institutions--academia, the criminal justice system, and medical and social service organizations--argued that abused women needed and caused violence in their relationships for their own psychological well-being. She states: "The police, courts, hospitals, and social service agencies cooperated, although not conspiratorially, in defining the abuser's behavior as legitimate or insignificant and the victim's behavior as crazy, provocative, or reformable" (p. 27). Because the dominant cultural perspective prior to the 1970s presented women as responsible for any violence they experienced in the context of an intimate relationship and did not recognize them as victims, abused women were often unable to receive needed legal and social assistance (Pleck, 1982; Schechter, 1982).

Rooted in the second-wave of the feminist movement, the battered women's movement originated in the early 1970s. Susan Schechter (1982) provides a detailed history of the formation of the movement. According to Schechter, by the late 1960s and early 1970s the second-wave of the feminist movement was comprised of two main branches--the liberal or "women's rights" branch, and a more radical branch focused on freeing women from oppression. While both of these branches focused on bringing attention to the ways in which women were discriminated against in U.S. society, the radical branch also began to raise consciousness about "previously



undiscussed 'personal' problems" that women experienced, including physical and sexual violence (p. 31). Out of this arose anti-rape work that resulted in the creation of rape crisis centers around the country. Schechter maintains that it was the anti-rape movement that provided the basis for the battered women's movement:

The feminist anti-rape movement has not only laid the foundations to change public consciousness, but also has built organizations and networks of politically sophisticated and active women. The anti-rape movement has unmasked the domination that violence maintains, has torn away a veil of shame, and shown that women can aid one another, transforming individual silence and pain into a social movement. Such work handed ideological tools, collective work structures, and political resources to the battered women's movement. (p. 43)

Thus, in the 1970s many different women, including feminists, community activists, professionals, and women who had been battered "increasingly responded in a new way [to woman battering], providing emotional support, refuge and a new definition of 'the problem'" (Schechter, 1982, p. 56). This new definition characterized woman battering as a serious social concern. Schechter, however, maintains that "a respectful caution must be exercised in untangling the ideological threads within the movement" (p. 44). She argues that while ideology was important to the movement, there was no one unified ideology upon which the movement was based. As she points out, due to the enormous amount of work the movement undertook, there was often little time to develop philosophy. Further, not all women in the battered women's movement identified as feminists and not all feminists in the movement were in agreement about what "feminism" meant. As Schechter states, "Women who started battered women's programs were motivated by diverse ideological and personal experiences. The meaning of this diversity, often invisible at first, became evident only later and partially accounts for tensions within the battered



women's movement today" (pp. 44-45). Despite the lack of a clear ideology, the battered women's movement directly challenged the dominant thinking of the time by arguing that domestic violence was not merely a private issue but a public, social, and political problem rooted in sexism and women's oppression (Schechter, 1982).

Reform efforts of the battered women's movement were multiple; the movement brought increased media attention to women battering, established safe houses and shelters for victims of domestic violence, formed state and national task forces and coalitions that produced a proliferation of research and information, and demanded that the criminal justice system improve domestic violence policies and practices (Schechter, 1982; Schneider, 2000; Tierney, 1982). As a result of such pressure, changes in the criminal justice system included: the removal of procedural barriers to official action (such as the elimination of a federal law in the 1970s mandating that battered women must initiate divorce proceedings before requesting a temporary restraining order); new substantive state and federal domestic violence legislation (such as the legislation of "domestic violence statutes" by many states that create a separate domestic violence criminal offense); increased use of arrests and prior restraints on offenders; and court-sponsored mediation and counseling programs (Buzawa and Buzawa, 1996; Chauddhuri and Daly, 1992).

It is important to note that the battered women's movement was not the only social force to push for the criminalization of domestic violence (although it was arguably the most influential one). Ford, Reichard, Goldsmith, and Regoli (1996) maintain that the adaptation of a control perspective towards domestic violence by the criminal justice system in the past two decades stems not just from reform efforts of

women's groups. In addition to the battered women's movement call for harsher punishment of woman battering to assert the seriousness of it as a crime, there has been a "law and order" movement, which has advocated for harsher punishment towards crime in general. For Ford et al., the labor of both of these movements has resulted in the increased criminalization of woman battering. A final important force that contributed to the criminalization of domestic violence was the modern victims' rights movement. In the late 1980s and 90s, victims' rights advocates argued that criminal law needed to take the rights of victims more seriously (Dubber, 2002). The movement emphasized the importance of recognizing the suffering of victims—particularly those of interpersonal violence—and also influenced the "tough-on-crime" approach to lawmaking that gained prominence in the 1980s (Dubber, 2002).

#### Legislative Reform

Battered women's advocates have written, lobbied for, and assisted in implementing legislation in many states that has helped abused women receive better assistance. Many of the shifts in police and court practice—which I will shortly discuss—stem from these legislative changes. According to a report by the Urban Institute (Burt, Dyer, Newmark, Norris, and Harrell, 1996), in the 1970s and 1980s, legislative reforms in many states:

- (1) Codified domestic violence as criminal conduct; (2) authorized or mandated arrest of the offender in domestic violence incidents, given probable cause; (3) created new offense categories to cover domestic violence incidents and increased penalties under existing statutes; (4) expanded coverage of domestic violence statutes to include couples living

together or having a child in common, and, in some jurisdictions, couples of the same sex; (5) created civil protection orders specifically for domestic violence, expanded the allowable remedies, and, in some jurisdictions, criminalized behavior violating these orders; and, (6) mandated training about domestic violence for police and highway patrol officers and sheriffs.

Further, on a federal level, in 1984 the Attorney General's Task Force on Family Violence, found the need both for coordinated community responses to domestic violence and for specific reforms in laws and practices of the criminal justice system (Burt et al., 1996). The Violence Against Women Act was passed in 1994 as a result of the work of women's and civil rights groups. According to Schneider (2000), VAWA "is a comprehensive legislative effort to address the problem of violence against women through a variety of mechanisms, including funding for women's shelters, a national domestic abuse hotline, rape education and prevention programs, and training for federal and state judges" (p. 188). This legislation was groundbreaking in that it defined violence against women as violating a federally protected civil right. One of the major accomplishments of VAWA was the establishment of the "STOP Violence Against Women" grants program. This program provided funding (known as STOP grants) to states, Indian tribal governments, and local governments to assist them in developing and strengthening law enforcement and prosecution strategies to combat violent crimes against women. The grants also helped to develop and strengthen victim services in cases involving violence against women.

The Urban Institute also reports that by 1996, most states had some type of legislation allowing a police officer to arrest for a misdemeanor in domestic violence cases without first obtaining a search warrant. Thirty-nine states had some type of statewide policy pertaining to law enforcement response or training. Further, twenty-seven states had implemented one or more special units for domestic violence response within law enforcement, while twenty-two had implemented one or more special units within prosecution (Burt et al., 1996).

### Policing Reform

Prior to the creation of the battered women's movement, police officers received little to no training in handling domestic violence cases and most departments did not have concrete domestic violence policies in place. During the 1960s, policies were implemented that encouraged police officers to treat domestic violence as a "breach of the public peace" and to respond to domestic violence calls with the use of mediation and referrals to social service agencies (Belknap, 2001; Eigenberg, 2001b). Schechter (1982) provides an example of this response policy from the Michigan Police Training Academy:

- a. Avoid arrest if possible. Appeal to their vanity.
- b. Explain the procedure of obtaining a warrant.
  1. Complainant must sign complaint.
  2. Must appear in court.
  3. Consider loss of time.
  4. Cost of court.
- c. State that your only interest is to prevent a breach of the peace.
- d. Explain that attitudes usually change by court time.
- e. Recommend a postponement.
  1. Court not in session.
  2. No judge available.
- f. Don't be too harsh or critical. (p. 157)

Thus, commonly when women called the police after being beaten by their partner, the calls were screened out or the police refused to arrest the batterer (Jaffe, Hastings, Reitzel and Austin, 1993; Schechter, 1982). A national review of basic training in the late 1970s showed that police training on domestic violence was limited to a brief mention during a short lecture on mentally "disturbed" individuals (Eigenberg, 2001b). Training guides "often portrayed battered women as nagging or domineering, and instructed police that removal of an intoxicated and abusive husband in those circumstances would be unreasonable" (Jaffe et al., 1993). Clearly, police policy and practice at this time reflected the dominant ideology that battered women suffered from some type of mental pathology and should be viewed as responsible for any abuse they suffered.

From its origins, the battered women's movement criticized the reluctance of police departments and the criminal justice system to provide protection to battered women, while simultaneously demanding reforms (Buzawa and Buzawa, 1996; Hilton, 1993). In the 1970s, class-action lawsuits filed in several cities took issue with the lack of police response to domestic violence. For example, as Schechter (1982) describes, in 1976 battered wives filed a suit, *Bruno v. Codd*, against the New York City Police Department, the New York City Department of Probation, and the clerks of the Family Court. The lawsuit charged the police and courts with "gross failure to comply with the law" (p. 160). The police settled out of court and agreed on a number of policy stipulations, including that they respond to all calls from battered women, arrest men who commit assault, and assist battered women in obtaining medical care. As Schneider (2000) observes, "This litigation raised the

dramatic notion that domestic violence was criminal, sanctionable activity that was a harm against the 'public,' the state, not just an individual woman, and should be treated the same as an assault against a stranger" (p. 44).

In the 1980s, police response to woman battering continued to increase in the U.S. Several forces contributed to this. Not only did the battered women's movement persist in its efforts to bring increased attention to the problem of domestic violence, but battered women also continued to file class-action lawsuits against police departments who failed to arrest batterers. As Belknap (2001) discusses, a well-known example of this was the 1984 case *Thurman v. City of Torrington* in which police failed to respond to calls by Tracey Thurman, whose ex-husband repeatedly threatened, stalked, and harassed her despite the fact that she had obtained a restraining order against him. During an instance where her ex-husband beat her so severely that she was left with permanent physical damage, the police not only delayed their response but watched the beating without intervening. Thurman won the lawsuit, but perhaps more importantly, the governor of Connecticut also formed a state task force whose sole purpose was to examine responses to domestic violence.

Another factor that contributed to changes in police policy was the very influential Minneapolis experiment—a pioneer study conducted by Sherman and Berk in the 1980s, that found that arresting batterers helped to prevent future violence (Gelles, 1996). Belknap (2001) describes the study: "...offenders were randomly assigned to three options: (1) arrest, (2) mediation, or (3) an order that the offender leave the premises" (p. 294). Sherman and Berk found that those offenders who were arrested were the least likely to commit future violence. As Belknap (2001)



maintains, these findings were another important factor that resulted in many cities around the U.S. adopting policies that encouraged or even mandated arrest in domestic violence cases.

Matters Mandatory and pro-arrest (or presumptive) policies are common today. A mandatory arrest law “requires police to arrest a suspect if there is probable cause to believe that domestic violence has occurred, removes the decision to press charges from the victim, and generally limits or eliminates police discretion” (Schneider, 2001, p. 184), while pro-arrest policies or presumptive policies encourage arrest but allow officers a bit more discretion. As of 2001, 28 states had implemented mandatory arrest statutes of some type, while 12 additional states had implemented statutes that encouraged or preferred arrest (White, 2003). However, as I will discuss at a later point in this chapter, mandatory arrest policies have been the subject of much controversy and debate.

### Court Reform

In the late 60s and early 70s, the courts’ response to domestic violence was not much different than the police response and often reflected blame toward abused women and leniency towards batterers. During this time, the courts’ interests in “keeping the family together” commonly superseded concerns with protecting women from violence. Schechter (1982) demonstrates that judges rarely removed abusive men from the home but instead recommended counseling as a means of reconciliation. Underlying this practice was the reigning cultural and legal ideology that framed battering as a “private” matter, outside the realm of the law. Liberal theory has traditionally separated social life into two separate spheres: the private (or



women's) sphere that is associated with family and domestic life; and the public (or men's) sphere that describes the marketplace. Under liberalism, the state may legitimately intervene in public matters, yet has no authority to do so in private matters (Jaggar, 1983). Therefore, historically the state has believed it should not intercede into "private" matters. As Marshall (1997) notes, "because the United States is a liberal political system, the conception of separate public and private realms is imbedded in the law and doctrines concerning the state's relationship to the family" (p. 99). Thus, many feminists have argued that this public/private<sup>3</sup> separation has served to legitimize and even perpetuate violence against women (Schneider, 2000). Schneider (2000) states: "The rhetoric of privacy that has isolated the female world from the legal order sends a message to the rest of society. It devalues women and their functions and says that women are not important enough to merit legal regulation" (p. 89). As Schneider observes, by allowing a man to physically harm his wife, the law constitutes woman as man's property and considers any act he uses to control her as legitimate and reasonable.

Although prior to the battered women's movement there did exist laws against domestic violence in every state, because agents of the criminal justice system were afforded a great deal of discretion in screening cases, arrest and prosecution were uncommon (Schechter, 1982). Many times, men who were arrested for partner assault never were tried in a court. Schechter (1982) describes how in 1972 in Detroit, of 4900 domestic assault cases brought to the criminal justice system's attention, fewer than 300 were actually tried (p. 158). Research conducted in the 1970s found that domestic violence cases were much more likely to be dismissed than

other cases (Davis and Smith, 1995). Ford and Regoli (1993) state that prosecutors have reflected both a lack of response to domestic violence allegations and have made women "feel responsible for their own victimization through screening questions: 'Are you still living with this man?' 'Are you married to him?' 'Have you filed for divorce?' 'Why do you stay with him?'" (p. 130). Further, in the early 1970s, protective orders were difficult to obtain and in most states were only available under the context of divorce. Even when judges did grant orders of protection, rarely did they actually order an abusive man to leave the home (Schechter, 1982).

In the 1980s and 90s, just as police departments experienced pressures for reform, so did the court system (Davis and Smith, 1995). The 1984 U.S. Attorney General's Task Force on Family Violence detailed specific recommendations for prosecutors, all of which served to organize "prosecutorial activities to insure an effective response to complaints" (Ford and Regoli, 1993, p. 149). However, as Eigenberg (2000b) argues, change has been slower in the courts than in police departments partially because the doctrine of sovereign immunity does not allow lawsuits against judges and prosecutors; thus, they have not had as much of an impetus to implement reforms. Despite this, there have been some steps taken to improve the courts response to domestic violence, such as the development of specialized domestic violence prosecution units, the use of batterer treatment programs, and the creation of model sentencing guidelines to promote increased uniformity and accountability (Davis and Smith, 1995; Eigenberg, 2000b).

A specific issue targeted for legal reform by battered women's advocates has been the way the courts handle battered women who kill their batterers. Historically,

women who were abused by their intimate partners and faced criminal charges for homicide or assault of their batterer were often denied "equal rights to present the circumstances of their acts within the framework of the criminal law" (Schneider, 2001, p. 113). As a result of this, in the late 1970s and early 1980s both the use of expert testimony and the defense of "battered women syndrome" (or BWS) were introduced (Belknap, 2001; Schneider, 2001). Expert testimony involves using witnesses to explain the context in which battering occurs and "has been a primary vehicle for addressing the lack of credibility accorded battered women" (Schneider, 2001, p. 108).

BWS is a diagnosis "typically brought in as a defense for women who killed their batterers and usually requires an expert witness to verify that this particular woman suffers from BWS" (Belknap, 2001, p. 298). As Belknap (2001) explains, BWS is understood as having three components. The first is psychologist Lenore's Walker "cycle of violence" theory that argues woman battering is a pattern occurring over time that involves three phases: a tension-building phase; the actual battering incident; and a phase where tension is absent, as the batterer appears apologetic and remorseful (Walker, 1993). The second component of BWS, also attributed to Walker, is referred to as the "learned helplessness" of the battered woman and is used to explain why many battered women don't attempt to leave their abusive relationships. The underlying argument is that experiencing recurring violence makes women passive and unable to act in their own best interests (Walker, 1979). The final component of BWS is based on post traumatic stress disorder (or PTSD). PTSD is a diagnosis claiming that "certain psychological symptoms result from experiencing

severe and unexpected trauma or being unexpectedly and repeatedly exposed to abuse" (Belknap, 2001, p. 301). Today, the majority of states allow the expert testimony of those who can verify that a woman has BWS (Walker, 1993). Further, some have argued that using the BWS defense is necessary in order to provide a more accurate portrayal of the context in which domestic violence occurs. However, as I will discuss more in-depth in Chapter Three, BWS has also been criticized by some who believe it robs battered women of the chance to explain their own experiences and also portrays them as mentally ill, helpless, and irrational (Belknap, 2001).

Yet another recent development in the ways the courts address domestic violence involves the implementation of policies that encourage or mandate prosecution, regardless of the desires of the victim. According to Schneider (2001), a "no-drop" prosecution policy "denies the victim of domestic violence the option of withdrawing a complaint at her discretion once formal charges have been filed, and limits prosecutors' discretion to drop a case based only on the fact that the victim is unwilling to cooperate or participate" (p. 184). These policies are believed to have been implemented primarily for two reasons (Davis and Smith, 1995). Some research showed that court officials were frequently dismissing domestic violence cases, despite the fact that more batterers were entering the criminal justice system as a result of mandatory arrest policies. However, other research indicated that domestic violence cases were not dismissed solely due to court officials' biases, but because of victims' desires. In either case, policies encouraging or mandating prosecution remove the discretion from both court officials and battered women, making the chances of prosecution more likely.

While pro-prosecution policies clearly became more common in the 1990s, determining the number of states with no-drop prosecution policies is difficult because specialized courts and no-drop policies commonly are created according to local jurisdictions (Smith, 2001). Further, as Cheryl Hanna (1996) points out, the term "no-drop" is somewhat tricky in that there exists a difference between "hard" and "soft" no-drop policies. Under "hard" no-drop prosecution policies, cases progress with or without a victim's consent, as long as there is enough evidence. Victims are often subpoenaed and may even be held in contempt of court for failing to cooperate and/or testify. Under "soft" no-drop prosecution policies, while victims are often encouraged to cooperate, they are not forced to participate in the process. Finally, as Hanna acknowledges, even in jurisdictions with strict or "hard" prosecution policies, prosecutors often retain a great deal of decision-making power over whether or not to proceed with a case. Not unlike mandatory arrest policies, no-drop prosecution policies are highly controversial, as I will now discuss.

### **Mandatory Policies: The Debate**

As I have noted, numerous states and/or local jurisdictions have enacted "mandatory arrest" and "no-drop" policies because when left to their discretion, many police officers and prosecutors historically have had a tendency not to take domestic violence very seriously and therefore have treated batterers leniently (Hilton, 1993). Further, in some jurisdictions, even when arrests in domestic violence cases do occur, problems with victim reluctance have resulted in dropped charges and case dismissals (Belknap, 1995; Davis and Smith, 1995). Mandatory arrest and no-drop prosecution policies have been highly controversial however, both in and outside of feminist

circles. Schneider (2000) discusses four arguments that exist in favor of such policies. The first argument is that these policies "...best effectuate the state and prosecutors' roles regarding domestic violence..." (p. 185). Many battered women's advocates have argued that the decision to prosecute should rest with the state and not the victim. As Sparks (1997) argues, battered women advocates want to hold agents of the states, such as police and court officials, responsible for "carrying out the government's mandate to protect citizens" (pp. 35-36).

The second argument Schneider discusses in favor of mandatory arrest and no-drop prosecution policies is that such policies relieve victims of making the decision whether or not to arrest or prosecute their batterer and thus removes pressure often applied by batterers to drop the case. Indeed, research suggests that high percentages of women who file charges often drop them prior to adjudication (see Ford, 1991). Other research, however, suggests that women's reasons for wishing to withdraw cooperation in their batterers' prosecution are not usually based on their desires to reunite with their batterers. Women may want to drop charges because of fear and/or because they encounter resistance in the system (Erez and Belknap, 1998; Hart, 1996; McLeod, 1983). Thus, some advocates believe that mandating arrest and prosecution will help address these issues. According to Schneider (2000), a third argument used to support mandatory arrest and no-drop policies is similar to the second argument, and centers on the impact these policies have on the batterer: they "tell the batterer that violent conduct and abuse are criminal and unacceptable, and that incarceration is an appropriate sanction" (pp. 185-186). Again, the argument



here is that under such policies, batterers will be less able to manipulate and pressure victims into dropping charges.

The fourth and final argument in favor of mandatory arrest and no-drop prosecution policies discussed by Schneider is that they help to portray the notion that domestic violence is a public matter. Proponents of this argument maintain that, "by refusing to intervene under a rationale that domestic violence is a private matter, the state not only condones battering but in fact promotes it" (p. 186). Uniform response policies send the message that the state will treat domestic violence as no less a serious crime than assault by a stranger.<sup>4</sup>

There has been much criticism of these uniform policies, as well. A major area of concern is whether or not mandatory arrest and no-drop prosecution policies really serve as a deterrent to domestic violence. While there have not been many studies evaluating no-drop prosecution policies, research examining the effectiveness of mandatory arrest policies in deterring future violence has produced contradictory results (Gelles, 1996; Schmidt and Sherman, 1996). As I previously discussed, in the 1980s Sherman and Berk's Minneapolis experiment showed that arresting batterers helped to serve as a deterrent to future violence and resulted in the implementation of mandatory arrest policies all around the U.S. (Schmidt and Sherman, 1996). However, in the 1990s, replication studies of the Minneapolis experiment in six other cities reflected both deterrent and backfiring effects of arrest (Schmidt and Sherman, 1996). From these replication studies, researchers have drawn several conclusions, including that: (1) arrest reduces domestic violence in some cities but increases it in others; (2) arrest reduces domestic violence among employed people but increases it

among unemployed people; (3) arrest reduces domestic violence in the short term but may increase it in the long run (Sherman, 1992). These replication studies paint a very muddy and confusing picture regarding the effectiveness of arrest in deterring domestic violence. Sherman himself has retracted the importance of the results of his original Minneapolis experiment and argues that mandatory arrest laws should be repealed.<sup>5</sup> As Hirschel et al. (1992) maintain, there is considerable controversy over what constitutes the most effective or appropriate law enforcement response to domestic violence. Because of this, many are critical of mandatory arrest policies.

Evidence also suggests that mandatory arrest policies have led to an increase in the number of arrests of battered women—studies have shown that in some jurisdictions, after mandatory arrest policies were implemented the number of women arrested for domestic violence increased (Hirschel and Buzawa, 2002; Miller, 2001). Additionally, some feminists have expressed concerns that using arrest as the main means of addressing woman battering will present problems in minority and/or poor communities where historically, police have demonstrated inappropriate behavior, including racism and brutality (Sparks, 1997). As Sparks (1997) reminds us, poor women and women of color who lack trust of police officers will likely not call them for assistance and may not want their batterer to be placed in the hands of the criminal justice system.

Another concern with both mandatory arrest and no-drop prosecution policies is that they effectively serve to remove victims from a major-decision making role. Some researchers have argued that doing so is not always in the best interest of the women who experience domestic violence (Ford, 1991; Mills, 1998; Hilton, 1993;

Hoyle, 1998). Not only have judges in some jurisdictions punished women who refuse to testify against their batterers by charging them with contempt of court (Hilton, 1993), but many researchers and battered women advocates argue that no-drop and mandatory arrest policies disempower women because they limit women's agency, ignore their opinions, and re-victimize them through forced submittal to state power (Ferraro and Pope, 1993; Ford, 1991; MacLeod, 1987; Schneider, 2000).

There are many reasons a woman may not want her batterer to be jailed: she may depend on him for income and/or housing, she may be afraid he will be even angrier when he gets out of jail and his violence against her will escalate, she may not trust the system, and/or she may not want to end her relationship with him.

Finally, other arguments against mandatory arrest and no-drop policies stem from the recognition that battered women's experiences are diverse and multifaceted—there is no one universal “battered woman's experience.” Uniform responses to domestic violence fail to take into account the diversity of women's situations based on structural factors such as race, culture, and class and individual factors such as different women's desires and needs (for further discussion of these issues see Crenshaw, 1995; Mills, 1996, National Latino Alliance for the Elimination of Domestic Violence, 1997). Critics of mandatory arrest and no-drop prosecution policies argue that these policies/responses assume that a cookie-cutter approach will be applicable to all battered women's situations.

Disagreement over mandatory policies is a central issue for those working in the domestic violence field. As Schneider (2001) states, “Feminist advocates are deeply divided as to whether mandatory arrest, mandatory prosecution, and no-drop

prosecution are a better policy choice than the courts' current practice of dismissing cases when the battered woman refuses to participate" (p. 184). This question has not just brought about debate within the battered women's movement, but has also caused friction between the battered women's movement and the criminal justice system on a broader level. The debate surrounding mandatory arrest and no-drop prosecution policies highlights many of the issues that arise when feminists attempt to use the state to remedy social issues predominately impacting women, such as domestic violence.

### **Tensions between Feminists and the Criminal Justice System**

Eigenberg (2001b) states: "An examination of the criminal justice system response indicates that there has been progress in terms of changing the cultural hegemony, and battering is more apt to be viewed as a crime than in the past" (p. 291). Clearly, the battered women's movement has played a major role in the reforms to criminal justice response to domestic violence. However, feminists' engagement with the criminal justice system on the issue of domestic violence has brought up some major issues. Questions exist surrounding both the success of the criminal justice reforms and the nature of these reforms (that is, the direction they have taken and whether or not they can effectively address all of the needs of battered women).

Current research demonstrates that gender bias in the criminal justice system still exists and that many battered women continue to have negative experiences with the police and/or the courts. For example, Stephens and Sinden (2000) found that the majority of battered women in their study who had more than one encounter with law

enforcement officials for domestic violence reported police officers commonly minimized the seriousness of their situation, doubted their story, conveyed attitudes of nonchalance and indifference, and/or were rude and condescending. Similarly, a study by Belknap and Hartman (2000) of victim advocates' reports found that "although the advocates reported a wide range of police behaviors and responses...from supportive to hostile, most of the reported responses implied that a significant proportion of cases involved police who fail to take woman battering seriously" (p. 171). Further, Byrne et al. (1999) found that female victims of violent assault by a current or former intimate male partner were significantly less likely to report satisfaction with the district attorneys and judges than women who were the victims of nonpartner violence. The victims of partner violence were also less likely to believe that prosecutors took their opinions into account and to believe that the sentence was appropriate. In still another study, half of the battered women interviewed by Erez and Belknap (1998) felt they were discouraged to follow through with prosecution by the prosecutor. Half also reported that the prosecutor asked them questions about whether they had provoked their abuser.

Still other research has shown that the very process of using the court system is confusing and frustrating to battered women and this may contribute to their reluctance to going to court or using the system at all (Bennet et al, 1999). This has been shown to be especially true for battered women who are members of minority groups. Current criminal justice policy surrounding domestic violence has been criticized for overlooking or ignoring issues that are specific to immigrant women and/or women of color, such as language barriers, threat of deportation, and lack of

power and economic resources (Crenshaw, 1995; National Latino Alliance for the Elimination of Domestic Violence, 1997).

Many feminists believe that weaknesses in the criminal justice response to domestic violence continue to exist and thus, legal reform is still necessary.

However, an even broader issue for some feminists surrounds the question of whether or not the criminal justice system is the best suited institution to address domestic violence. While the criminalization of domestic violence has resulted in law enforcement and justice system officials taking woman battering more seriously and has lead to increased rates of arrest and prosecution of batterers, some feminist advocates have expressed concerns about possible negative ramifications of criminalization. As Schneider (2000) states:

Critics maintain that additional state interference into a battered woman's life can hardly be described as liberating. If arrests lead to automatic prosecution, women will be less likely to call police for help. Indeed, these policies may reinforce battered women's distrust of police and the justice system. In addition, the effect of forcing prosecution may well be that the battered woman becomes aligned with her batterer in order to protect him, thereby further entrenching her in the abusive relationship. (pp. 186-187)

Additionally, as we have already seen, for some, uniform and mandatory policies fail to account for the complex nature of domestic violence and thus, are not the best solution to ending woman battering.

From the battered women's movement's original origins, feminists have disagreed over the level of their engagement with the state and over the amount of control the criminal justice system should have in dealing with domestic violence. Schechter, writing in 1982 about some of the issues the battered women's movement was confronting at the time, demonstrates the nature of this debate:



In working to reform the criminal justice—or other—systems, women in the movement are faced with difficult political questions about the nature of social change and the relationship between institutional reform and a social movement. Taken to its extreme, one position suggests that reforms are the solution to battered women's problems. The other extreme declares that police, courts, and welfare systems reflect a hopelessly racist, sexist, and class-dominated society and that attempts to change them or work within them waste time and are eventually co-opted. (pp. 175-176)

For sure, the fear of the co-optation of domestic violence discourses by the state has been one of feminists' biggest concerns. Some theorists have argued that viewing domestic violence as a criminal issue shifts attention away from a political/feminist perspective (Ferraro, 1996; Mills, 1996; Schneider, 2000). The primary response to domestic violence by the state since the 1970s has been to treat it as a crime, effectively "replacing demands for restructuring gender inequality" (Ferraro, 1996, p. 87). Woman battering is thus not seen as a gendered issue of power and control, but solely as a wrong against society. Such a perspective, critics argue, does little to help women secure equal access to social resources and power (Brown, 1995).

Another issue for feminists in deciding whether or not to engage with the state regards the types of remedies offered by the state for woman battering. Of particular concern is potentially legitimating a traditionally "masculine" culture of violence in the criminal justice system: "public, legitimate, and presumably benevolent forms of male violence cannot be used to prevent private, illegitimate, and malevolent male violence in the home" (The Collective, 1997, p. 88). While many hoped the criminalization of domestic violence would provide increased protection to battered women, as The Collective (1997) points out, such a response does not necessarily

challenge existing gender, race and class structures, and the enforcement of the law may still be carried out in a discriminatory manner.

Similarly, some have argued that the viewing of domestic violence solely as a criminal issue has resulted in the overemphasis on particular incidents of violence and does not allow for the consideration of women's experiences in the context of the entire relationship (Mahoney, 1994; Wittner 1998). Further, Ferraro and Pope (1993) maintain that when police respond to battering, two cultures come into conflict with one another. One, that of the police, is the culture of power, "in which decisions are based on rational choice and maximization of profit or benefits" (p. 101). Under this perspective, through criminal justice system tactics, it is possible to determine the "facts" of a particular incident. If a crime has been committed, the offender must be processed according to the rules of the system. According to Ferraro and Pope, the battered women's culture is more of a relational culture. They make clear that they don't mean to imply that all battered women respond to violence similarly, but they argue that most women in abusive relationships experience confusion, ambiguity and fear. They state:

In the culture of relations, decisions are not based on 'facts' and a calculation of the most propitious outcome for the woman. There are more compromises than decisions—strategies for survival in a confusing, dangerous, unpredictable situation. It is a culture in which boundaries are shifting and hazy. (p. 102)

According to Ferraro and Pope, the criminal justice system privileges the culture of power over the relational culture in its attempt to help women. This is problematic because the imposition of the culture of power upon battered women's situation does not empower them, but instead limits their self-determination. Ferraro

and Pope argue that the perspective of the criminal justice system fails to completely account for the contextual realities of battering and the often-incompatible differences between battered women and the criminal justice system. They state, "The analytical and policy effect of the focus on police response is the disregard of the complex power relations of battering and the promotion of a "cure" that brackets sexism, racism, homophobia, and poverty" (p. 99).

In contrast to those who have taken issue with the criminalization of domestic violence, many feminists have argued that the state's changed response to woman battering in the past several decades has been positive and feminists should continue engaging with the state to fight for domestic violence reforms (see Schneider, 2000, for discussion). As we have already seen, battered women's advocates have been deeply involved in reform efforts and have been able to change policy. Some feminists argue that just because mandatory policies are not without problems does not mean they should be repealed; instead, the focus should be placed on making sure agents of the criminal justice system implement these policies fairly and are held accountable if they do not (Belknap, 2001). Many also believe that the police should be held responsible, as agents of the state, for protecting citizens from violence. Sparks (1998) writes: "Reliance on the police to further the goal of empowering women has problematic and even paradoxical aspects; yet clearly the potential for improved police intervention on behalf of battered women cannot be ignored" (p. 36). Further, Belknap (2001) makes the argument that through the arrest and detainment of batterers, battered women and their children are provided a chance to escape.

The debates surrounding both the success and nature of criminal justice response to domestic violence highlight an important issue discussed by Schneider (2000): the complexity of incorporating women's experiences into law. As she points out, feminist lawmaking needs to be "particular" by taking individual experiences of battered women into account, but also be "general" in connecting violence against women to larger hierarchical social structures. Achieving a balance between these two can be difficult, if not impossible. Further, just because women's experiences are taken into account by the law, doesn't mean the voices of the women themselves are actually heard. Schneider states: "Experiences that were previously invisible—rape, intimate violence, sexual harassment, incest—are now made visible. But this visibility does not mean that women are really being listened to, or that the listener (or society at large) gets the point" (p. 103).<sup>6</sup> Clearly, even if feminists do engage with the state, many questions and issues remain. How should the state represent the matter of domestic violence? Should it be viewed as solely a criminal issue? An important related issue centers on the way in which battered women are represented by the criminal justice system and domestic violence criminal justice policy. The criminalization of domestic violence and resulting discourses have positioned battered women in particular ways, with particular consequences for battered women—it is this topic that I will address in Chapter Three.

## NOTES

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<sup>1</sup> While my discussion centers on the processes that have shaped domestic violence discourses since the 1970s, see Kathleen Ferraro (1996) for an excellent discussion of the earlier foundations of domestic violence discourse.

<sup>2</sup> As many researchers have shown, attempts were made to address the problem of wife-beating prior to the 1970's (Schechter, 1982; Schneider, 2000). Both the temperance movement and the first wave

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of the feminist movement advocated for domestic violence reform in the late nineteenth century but were met with limited success.

<sup>3</sup> Okin (1991) argues that the phrase "public/private" is somewhat misleading as it has been used to refer "both to the distinction between state and society (as is public and private ownership), and to the distinction between non-domestic and domestic life" (p. 68). While, according to Okin, in both of these dichotomies the state is viewed as public and the family as private, in the former the socio-economic realm is included in the private realm, yet in the latter is included in the public realm. Thus, she prefers the term "public/domestic" to describe the dichotomy in which public life is viewed as separate from domestic, or family, life and which "enables theorists to ignore the political nature of the family, the relevance of justice in personal life and, as a consequence, a major part of the inequalities of gender" (p. 69).

<sup>4</sup> Research has shown that female victims of violent assaults by current or former intimate male partners report less satisfaction with the criminal justice than do female victims of assault by nonpartners (Byrne et al, 1999).

<sup>5</sup> This controversy is heightened by the fact that some feminists have "registered complaints that Sherman and his colleagues appear to be solely in charge of evaluating the pros and cons of arresting batterers" (Belknap, 1995, p. 48).

<sup>6</sup> What Schneider argues is not being heard is the diversity of women's voices and experiences.

## CHAPTER THREE

### The (Re)Presentation of the "Battered Woman"

Linda Gordon writes, "The modern history of family violence is not the story of changing responses to a constant problem but, in large part, of redefinition of the problem itself" (cited in Bacchi, 1999, p. 166). For sure, a variety of terms and concepts have been used to portray women's experiences with violence in the context of an intimate relationship. These terms have specific and at times, divergent, meanings in various social arenas such as law, the media, the battered women's movement, and various academic disciplines (such as biology, psychology, criminology, feminism, and sociology) (Ferraro, 1996; O'Neill, 1998). Ferraro illustrates how such varied influence has resulted in the reflection of both resistance to and reproduction of power relations in domestic violence discourse. She writes:

This discourse is a feminist victory, on one side, as it has urged social recognition of women's oppression and developed material resources specifically addressed to the problem. It is simultaneously a feminist nightmare, as it has absorbed grassroots struggles into the machinery of social engineering and mass mediation, reinscribing patterns of race, class, and gender domination (p. 77).

While in Chapter Two, I traced the historical roots of domestic violence discourses, focusing primarily on influences of the battered women's movement and the criminal justice system, in this chapter I provide an in-depth analysis of these discourses and examine their social meanings and impacts. Along with Ferraro, my analysis is grounded in a feminist perspective. As such, I am interested in examining *how* and *why* domestic violence discourses are both a "feminist victory" and a "feminist nightmare." I will illuminate the ways in which power has been resisted and reproduced in the dominant cultural narratives that surround woman battering.



As I will illustrate in this chapter, an examination of the power dynamics in domestic violence discourses reveal numerous arguments over social meanings. For the most part, these arguments are of two sorts: (1) arguments over social meanings themselves (for example how domestic violence should be signified, and how both battered women and batterers are constructed); and (2) arguments over who gets to determine or make decisions about how domestic violence, battered women, and batterers should be represented and consequently, dealt with. My discussion in this chapter will pay attention to both types of arguments, and while I include an examination of how domestic violence has been constructed on a broad level, the majority of my attention will focus on the social meanings surrounding the concept of "the battered woman."

I first focus on the more general ways in which hegemonic domestic violence discourses have constructed battered women as victims of domestic violence. As such, I provide a genealogy of the term "battered woman." I examine the ways in which battered women have been constituted and represented by domestic violence discourses, linking this exploration to the ways in which female victims of crime have been constructed in general. I not only continue to explore the roles that the battered women's movement and criminal justice system have had in the creation of these discourses, but also examine the roles that other social organizations and groups have played. Throughout the chapter, I consider the complex ways all of these social forces have been in dialogue with one another. This genealogy forms the basis of my work; it draws heavily on the four theoretical literatures discussed in Chapter One and

I believe demonstrates how these literatures may be woven together and complement one another.

In the second part of the chapter, I narrow my focus and concentrate specifically on the discursive effects of criminal justice domestic violence policy for battered women. Given that woman battering is primarily viewed as a legal issue, the criminal justice system plays a major role in the production and reproduction of domestic violence discourses. As I discussed in Chapter One, criminal justice domestic violence policy and practice are not just based on dominant cultural representations of battered women, but also reproduce these representations. Considering policy as a form of discourse allows for an examination of the social meanings entrenched in this policy, and again, my major focus is on how battered women are constructed and represented and the potential implications of this for battered women.

Before turning to the next section, I wish to flag a central issue in the way in which the "battered woman" has been represented. Many of the portrayals of battered women in domestic violence discourses have been based on what has been referred to as the "victim/agent dichotomy" (Mahoney, 1994; Schneider 2000). Under this framing, women are depicted either as victims *or* agents, yet never both at the same time. According to Schneider (2000), this dichotomy has been a "central tension" within feminism in general (p. 74). She cites the issue of pornography as an example of this. While some feminists argue that pornography serves solely as a means of victimization of women, other feminists are highly critical of this view and instead choose to focus on women's individual agency and ability to exercise choice.

Schneider states that each of these views “underscores the fundamental inadequacy of *either* victimization *or* agency...to capture the complexity of struggle in women’s lives, and highlights how this false dichotomy leads to problematic extremes” (p. 75).

As we will see, frequently, depictions of battered women in U.S. society are premised on the victim/agent dichotomy. Both mainstream cultural narratives surrounding domestic violence and criminal justice domestic violence policy have simplified the interrelationship between victimization and agency in the lives of battered women. Thus, as I will demonstrate in this chapter, domestic violence discourses are often unable to recognize battered women’s acts of resistance while simultaneously accounting for the social and structural constraints these women may face. This is one of the key issues in arguments/discussions surrounding social meanings of battered women and has been an area of contention not only between the battered women’s movement and the state, but also within the battered women’s movement itself.

### **Hegemonic Constructions of the “Battered Woman”**

One of the central issues that feminists have confronted as a result of increased public and state attention to domestic violence revolves around issues of representation. As I discussed in Chapter Two, the battered women’s movement originated in the late 1960s and early 1970s as a direct attempt to obtain the recognition of domestic violence as an important social problem. As Schneider (2000) maintains, the discourse of the battered women’s movement emerged as “explicitly political” (p. 21). She argues that this discourse had several functions:

First, "battered women" were set forth as a definable group or category, with battering regarded within the larger context of "power and control"; physical abuse was a particular "moment" in a larger continuum of "doing power," which might include emotional abuse, sexual abuse and rape, and other maneuvers to control, isolate, threaten, intimidate, or stalk. (pp. 21-22)

Clearly, from the second wave of the women's movement arose a specific discourse and set of concepts in which domestic violence came to be understood; this discourse challenged previous ideology that depicted domestic violence as an issue of non-importance and framed domestic violence as "part of a larger system of coercive control and subordination" (Schneider, 2000, p. 5).

Further, the work of the battered women's movement brought increased media attention to the issue of domestic violence. And, as Tierney (1982) argues, this was beneficial to the movement. She writes, "Coverage first gave the movement visibility. Then, groups used media interest and the public concern that resulted to recruit support. Finally, wife beating came to be seen as a social problem: authorities began to recognize and respond to the conditions the media described" (p. 214).

Therefore, many would argue that the increased public attention to the issue of domestic violence and the creation of support services for abused women was a triumph for the battered women's movement. Ferraro (1996) maintains:

The construction of domestic violence discourse between 1970 and 1996 is an example of the deployment of power within liberatory discourses. As a challenge to male violence it exemplifies the potential for resistance through recasting the meanings of gender relationships. (p. 88)

In many ways, feminists and battered women's advocates were successful in their attempts to directly alter the social meanings that previously existed surrounding domestic violence and battered women.

However, this success has been somewhat tainted. Tierney (1982) argues that "As movements grow, they are often co-opted by official organizations" (p. 216). Indeed, after domestic violence was brought to public attention in the 1970s and 1980s, it became framed as primarily a criminal issue and concerns with addressing structural inequality and oppression were relinquished. Ferraro (1996) states, "The ascendance of crime control strategies within the discourse...tends to replicate gendered, as well as racialized and class-based hierarchies" (p. 87). As we witnessed in Chapter Two, the cooptation of social problems is one of the major issues that feminists face when deciding to engage with the state. Clearly, state involvement in woman battering and the criminalization of domestic violence has not come without costs. As Schneider writes:

...feminist ideas about the relationship between violence and gender have been simultaneously transformed, depoliticized, subverted, and contained: the broader link between violence and gender inequity that animated them has, to a large degree, been lost, or at least undermined. (p. 6)

Further, as Schneider (2000) illustrates, several of the approaches taken to both study/understand domestic violence and provide services to domestic violence victims also have depoliticized the issue.<sup>1</sup> A psychological approach has served to pathologize domestic violence in its quest to find individual, psychological causes to abuse. However, this perspective does not just focus on how batterers are "sick" but also considers women who remain in relationships with these men as equally troubled, if not more so. An example of this, as discussed by Schneider, is Lenore Walker's controversial conception of "battered woman syndrome," discussed in Chapter Two. Such a framework, according to Schneider, "shifts the focus of the

violent act to the woman, and the use of 'syndrome' suggests that it is she who is emotionally or mentally impaired" (p. 24).

Still another approach that shifts attention away from a political/feminist perspective on domestic violence has sociological roots. This approach examines woman battering under the larger framework of "family violence" and focuses on the possibility of all members of the family perpetuating violence (Schneider, 2000). This perspective has been criticized by many feminists for its gender-neutral approach and its failure to take into account factors such as intent, severity and consequences (Belknap, 2001).

Despite feminist criticism of both the "domestic violence as individual pathology" and "family violence" approaches, as Schneider reminds us, these perspectives have been influential in public, legal, and academic realms. The criminalization, psychologization and pathologization of domestic violence have served to sever the consideration of woman battering from its original feminist foundations. Instead, "it is viewed as though it can be 'solved' or 'treated' through legal remedies or mediation or therapy alone, without considering the issues of women's equality and gender subordination" (Schneider, 2000, pp. 27-28).

For many theorists (see, for example, Ferraro, 1996), while criminal and psychological perspectives do little, if anything, to increase women's access to economic and social resources and alleviate gender inequality, a positive ramification has been the acknowledgment of battered women as victims. However, as Ferraro herself allows, a reinterpretation of battered women as victims is not "free from cultural and moral baggage" (p. 89). Hegemonic domestic violence discourses have



constructed, positioned, and interpreted battered women in particular ways and thus determine perceptions and understandings of what a "battered woman" is. Such discourses provide the social and cultural meanings that shape the identity of "battered woman." However, just as there have existed a plurality of domestic violence discourses, there have also been multiple constructions of battered women. While an exploration of domestic violence discourses is vital to understanding the creation of the category "domestic violence" and accounts of underlying causes, an examination of how these discourses have constructed or presented battered women, specifically, is necessary to elucidate the meaning given to this identity and in turn, to better grasp the experiences of abused women.

Schneider (2000) maintains that while "battered woman" became the most common term used to describe the once unnamed harm that women suffered in abusive relationships, it "raises critical questions of definition and strategy" (p. 60). Particularly problematic, according to Schneider, is the reductive nature of such a term; because it focuses on describing the victim and her characteristics, it risks defining a woman solely in terms of her experiences with battering. This is compounded by the fact that there are often negative social stereotypes associated with women who are in abusive relationships. Interestingly, some of these negative stereotypes originated from the battered women's movement itself, in its initial attempts to draw attention to the problem of battering and shift the blame away from women to both batterers and systems of social inequality and oppression.

Many researchers have argued that constructing a unified image of battered women helped victim advocates and claims-makers to establish the seriousness and

severity of domestic violence in the 1970s (Davies, Lyon, and Monti-Catania 1998; Ferraro, 1996; Loseke, 1992). According to Davies, Lyon, and Monti-Catania (1998), during the early years of the battered women's movement, a major focus was the attempt to convince both the public and policymakers that battering was a serious problem that affected many different women. Because both professional and popular understandings of domestic violence often portrayed battered women as to blame for the violence they experienced, "advocates needed to construct a public image of the 'battered woman' who was more sympathetic" (p. 15). As Davies, Lyon, and Monti-Catania and Loseke (1992) discuss, domestic violence discourses thus became centered on the image of the battered woman as the "pure victim." This representation of the "battered woman" involves several characteristics. To begin with, battered women are depicted as wives who adhere to traditional gender roles and are economically and emotionally dependent on their abusers. Further, these women are portrayed as passive and not themselves violent. The only time they are depicted as using violence is in the case of self-defense. Under this construction, the abuse that battered women experience "is presented as a pattern of events that necessarily increase in severity and frequency, and that will only get worse unless someone intervenes" (Davies, Lyon, and Monti-Catania, 1998, p. 15). Finally, battered women are portrayed as extremely fearful, if not terrified by the abuse they experience.

The battered woman as "pure victim" construction is strongly tied to the notion of "learned helplessness" as developed by Lenore Walker (1979). She used this concept to explain why many battered women don't attempt to leave their

abusive relationships. Walker, a psychologist, applied research conducted with animals to battered women and argued that repeated violence makes women passive and unable to care for themselves. Walker states:

...the battered woman does not believe anything she does will alter any outcome, not just the specific situation that has occurred. She says, "No matter what I do, I have no influence." She cannot think of alternatives. She says, "I am incapable and too stupid to learn how to change things." (p. 50)

While this concept is arguably problematic in that it paints all battered women with the same broad brush, the notion of "learned helplessness" has been commonly used and accepted as a rationale for explaining battered women's behavior and is one of the characteristics of battered women's syndrome.

Sharon Lamb (1999) argues that it is not just the battered woman who has been constructed in specific ways, but female victims of all types of abuse, including rape and sexual harassment. She maintains that the image of the victim offered up by psychologists, researchers, therapists, feminists, victims' rights organizations, the media, activists and survivor groups is "one who is pure, innocent, blameless and free of problems (before the abuse)" (p. 108). After experiencing abuse, the victim is portrayed as extremely traumatized and greatly suffering. Victims are assumed to experience problems such as depression, suicidal tendencies, anxiety, phobias, addictions, dissociative identity disorder, eating disorders, sexual dysfunction, and post-traumatic stress disorder (p. 111).

Similar to Davies, Lyon, and Monti-Catania (1998) and Loseke (1992), Lamb (1999) argues that this image of victims was privileged in an attempt to garner public sympathy in order to counter previous discourses that blamed the victim. Further,

Lamb believes that therapists and victim advocates wished to avoid minimizing abuse and any potential harm it produced, as minimization of abuse was common by perpetrators and other members of society. As Lamb maintains, it seemed as if the only way the public would recognize the severity of the problem of victimization was through the belief that abuse leads to severe psychological distress. Lamb and others have argued that a consequence of psychologizing the abuse of women is that such abuse has become depoliticized. A focus on violence as a pathology obscures both the pervasiveness of the abuse of women in U.S. society and the context of unequal power relations in which it occurs (Ferraro, 1996, Lamb, 1999, Schneider, 2000). As Gondolf (1988) states, the abuse 'victim' has consequently become a new population to 'treat' rather than advocate for or empower" (p. 2).

A potential problem with critically examining public constructions of battered women and other female victims of abuse is that such an examination risks implying that these constructions are never in accordance with women's actual experiences with abuse and victimization. Certainly, there are many battered women whose experiences mirror the "pure victim" construction. Davies, Lyon, and Monti-Catania (1998) maintain that this construction of the battered woman accurately described many battered women in the 1970s and early 1980s. Likewise, there are women who experience violence and abuse who do, indeed, suffer greatly. Recognizing that victims often experience things such as post traumatic stress disorder, depression, suicidal tendencies, and eating disorders is important: "These symptoms are not invented or pulled out of thin air. There are victims of severe sexual abuse who

suffer from these and concomitant disorders, some briefly and some long-term” (Lamb, 1999, p. 111).

Thus, for Lamb, it is not the case that *no* victimized women’s experiences match the public constructions of battered women and victims, but she believes that assuming *all* victimized women’s experiences to be parallel with those described in these constructions is problematic. She states:

...reactions to abuse vary. Often, the mental illness-like qualities of women who have been beaten disappear in the years shortly after leaving the abusive men. And sexual abuse researchers have documented recently that the majority of sexual abuse victims do not show severe symptomatology (Finkelhor 1990). Many victims cope; many recover. (p. 111)

Lamb is particularly critical of the assumption that all victimized women experience post-traumatic stress disorder, or PTSD. She cites research illustrating that “while 95 percent of rape victims show PTSD symptoms a few weeks after the rape, fewer than 25 percent remain this distressed two years later” (p. 111). Instead of conceiving of all abuse as severe and damaging, Lamb argues that it exists on a “continuum of severity and harmfulness” (p. 109).

Additionally, Davies, Lyon, and Monti-Catania (1998) maintain that while the public construction of the battered woman as a “pure victim” may have accurately described many battered women who first sought help in the 1970s and 1980s, not all women who needed assistance with domestic violence in ensuing years fit this profile. As she points out, not all battered women initiate help seeking, and many battered women have additional problems in their lives such as substance abuse or participation in criminal activity. She states:

In short, the "real" battered women who came to public attention were more complicated and increasingly diverged from the image that had fueled public support. They were not necessarily "pure victims," nor had all of them experienced extreme physical or physiological abuse. They were not necessarily terrified of their abuser. Instead, they had more varied sets of experience and needs for assistance, protection, and support, which they understood in complex ways. (p. 17)

Because dominant constructions of battered women are based on an assumption that the experiences of all abused women are similar, such constructions also fail to account for the varied contexts of women's lives based on structural factors such as race, culture, and class. Theorists such as Crenshaw (1994) and Kanuha (1996) have argued the importance of paying attention to the multiple oppressions many battered women face, something current constructions of battered women commonly do not do. Crenshaw (1994) offers the notion of "structural intersectionality" to illustrate how other dimensions of women's identities besides gender influence their experiences with domestic violence. According to her, mainstream discourses surrounding domestic violence are created only with the interests of *women* in mind and thus women of color's unique experiences are often not recognized and/or are marginalized. For example, a battered woman who doesn't speak English will likely experience more difficulty receiving assistance in the United States than a battered woman who speaks English, yet many domestic violence intervention strategies do not take this into account.

Further, several theorists maintain that unified public constructions of battered women and other female victims reflect and/or reinforce traditional ideas of femininity (Holstein and Miller 1997; Loseke 1992; Lamb 1999). Lamb argues that such notions are "pleasing to U.S. culture because they reproduce a notion of girlhood



or womanhood that we would like to preserve: the helpless female—slight, airy, voiceless—who needs reviving (as with Ophelia) or rescuing” (p. 113). Under such a framework, female victims are not allowed to act for themselves. As Lisa Sanchez (1999) has argued, “there is little space for agency within the meta-narrative of the victim” (p. 53).

Unfortunately, because public constructions of the “battered woman” play a large role in the process of assignment of the identity of victim or battered woman, often, whether or not a person is able to claim the identity of victim depends on how well their situation mirrors that of the dominant constructions. Lamb (1999) argues that not only does there exist an expectation that all women who experience abuse will suffer, but an additional implication is that abused women who fail to suffer may be viewed as not having been “truly” victimized. Thus, the burden of proof falls on women to convince others that they are victims. If an abused woman in any way deviates or is suspected of deviating from the “pure victim” image—such as by initiating violence or using violence herself—she is not seen as a “real” battered woman. Kanuha (1996) reminds us, “we know of too many incidents when we were unsure whether a battered woman was ‘deserving’ of protection or other kinds of intervention because of particular behaviors she manifested that didn’t fit our image of the battered woman” (p. 38). Not only is there a risk that social service and criminal justice workers will refuse services to those abused women who fail to meet dominant cultural images of battered women, but abused women, themselves, may also fail to identify as “victims.” Recognizing their own strength or ability to act in

their own self interest may prohibit abused women from seeing themselves as victims (Mahoney, 1994).

While mainstream constructions of battered women were partially created with the intent of bringing increased attention and sympathy to the plight of abused women, clearly there are many problems with these constructions, as I have demonstrated. The original discourse of the battered women's movement was unequivocally political. However, as domestic violence has become a more prominent issue in the past three decades other social forces--including the criminal justice system, the media, and various academic institutions--have become instrumental in shaping the ways in which woman battering is conceptualized. The resulting hegemonic discourses individualize and psychologize woman battering, and therefore fail to offer a nuanced view of the social context in which domestic violence occurs by ignoring salient gender, race, and class hierarchies of power. Further, such discourses assume a uniform identity of "battered woman" and thus position victims of domestic violence in very specific ways, shaping and often limiting their potential actions. There is little recognition of the diversity of battered women's experiences and their attempts to empower themselves and/or resist the violence they experience. This is reflected in much of the criminal justice policy surrounding domestic violence, which I will now discuss.

### **Discursive Analysis of Criminal Justice Domestic Violence Policy**

In Chapter One, I discussed what it means to consider policy as a form of discourse. To review, a discursive consideration of policy focuses on the production of meaning in the policy making process, on "institutionalized patterns of

interpretation" (Fraser, 1989, p. 146). Of central importance are: (1) the ways in which subjects and subjectivities are constituted in discourse; (2) the effects following from the limits imposed on what can be said; and (3) the 'lived effects'—or the material, real-world implications (Bacchi, 1999). I conceive of domestic violence criminal justice policy—most specifically, mandatory arrest and no-drop prosecution policies—as a form of discourse and will consider the social meanings entrenched in this policy; in particular, I will examine how battered women are constructed and represented and how these constructions potentially impact their speech and actions.

Sally Engle Merry (1995a; 1995b) speaks about the "culturally productive role of law, or the ways in which law produces cultural meanings and identities as an aspect of its power" (p. 14). She argues that the courts and legal discourse are places where cultural images and meanings are formed, just as are the media and popular culture. However, as she points out, the criminal justice system has the capacity to back images and meanings with force through threats of fines, supervision, and prison. Thus, representations formed by and through the criminal justice system are presented as legitimate actions of the state, and often become institutionalized.

Pitch (1995), for example, examines the discursive construction of rape victims by both the women's movement and by U.S. and European law. She posits that the concept of "victim" itself has symbolic significance in that it declares and establishes a person's innocence and constructs victims as "bearers of rights." However, she argues that these constructions come with costs: both the loss of the sexual and gendered character of rape; and the construction of actors (the victims) as acted upon rather than as agents. Pitch argues that when sexual violence laws were

initiated by women's rights advocates in Italy, problems arose surrounding the appropriateness of women legislating matters regarding the bodies of other women.

Pitch asks:

Was it legitimate that women should legislate for, on behalf of, and concerning the bodies of other women, when up until then there had been a refusal to translate women's demands into politically negotiable objectives, as this implied the inevitable reduction of the ambivalence, the complexity, of their own analyses, their own desires and their own battles? (p. 165)

Many Italian women rejected the law as a means of addressing rape due its tendency to be overly reductive and simplifying. Pitch's discussion highlights problems that occur through the formation of law and criminal justice policy. Subjects of such policy--in this case, female rape victims--are constructed in often problematic and uniform ways. The mere act of legislating rape serves to reify the category of "rape victim" and this has concrete implications for the women who experience rape and become involved with the criminal justice system. As Pitch points out, this process is additionally complicated by the gendered nature of the crime of rape and by the androcentric nature of the criminal justice system.<sup>2</sup>

Similarly, domestic violence legal policy and legal images of battered women also communicate particular political and cultural meanings. As I demonstrated in Chapter Two, mandatory arrest and prosecution policies originated, for the most part, from the battered women's movement criticism of the ways in which the criminal justice system was previously handling domestic violence. If, as Fraser (1989) suggests, a discursive consideration of policy focuses on the "institutionalized patterns of interpretation," than the implementation of mandatory arrest and no-drop prosecution policies can be considered attempts to change the interpretive frames

used by the criminal justice system in its response to domestic violence. Prior to the work of battered women's advocates, women battering was viewed as a private, family matter that was experienced by a few women who were considered to be mostly, if not completely, to blame for the violence. Thus, the criminal justice system interpreted domestic violence as a situation best responded to with the use of discretion on behalf of police officers, prosecutors, and judges. This was deemed problematic by the battered women's movement, which argued that woman battering was a political and public matter that should be taken seriously by the state and criminal justice system. Primarily as a result of this, mandatory policies were introduced in an attempt to legislate newer or better interpretive frames for the criminal justice system, which would require agents of the criminal justice system to treat cases of woman battering more uniformly. While these policies represent a somewhat successful effort to change the locus of decision making in the criminal justice system's response to domestic violence, as I will show, the newer "interpretive frames" are also not without problems.

In the sections that follow, I will examine how domestic violence criminal justice policy—specifically, mandatory arrest and prosecution policies—position battered women and impact what they are able to do and say, and how their actions are often interpreted. This examination is centered on two interrelated issues: (1) the loss of context of the relationship in which woman battering occurs; and (2) the victim/agent dichotomy.

### Loss of Context of Relationship

The first issue that arises from a discursive analysis of domestic violence criminal justice policy involves the loss of context of the relationship in which woman battering occurs. This involves two interrelated issues—the power dynamics within the relationship and the gendered nature of battering. Many feminists have described battering as part of a larger picture of power and control. According to Evan Stark, battering should be understood as both “the pattern of violent acts and their political framework, the pattern of social, institutional, and interpersonal controls that usurp a woman’s capacity to determine her own destiny” (as cited in Schneider, 2000, p. 12). Thus, physical abuse is often inextricably connected to economic abuse, coercion, threats, intimidation, isolation, emotional abuse, and abuse of male privilege (Schneider, 2000). However, domestic violence criminal justice policy, in its current form, is often unable to account for this. Mahoney (1994) argues that law emphasizes acts of physical violence, and “this emphasis in turn hides broader patterns of social power, patterns of power within a given relationship, and complexity in the woman’s life, needs, and struggles” (p. 60). Mandatory arrest policies require the police to arrest based on the existence of evidence that a crime was committed. Police typically attempt to determine whether or not physical injury has occurred and as a result, over-emphasize physical violence. Battering, instead of understood as part of a larger pattern of power and control, is viewed as an individual incident to which the criminal justice system responds by arresting the offender.

The work of several researchers helps to illuminate the criminal justice system’s failure to understand battering as part of a larger pattern of power and



control. For example, Ferraro and Pope (1993), in their examination of battered women's experiences with the police, found that the police often focus on the immediate situation—particularly danger and evidence—when responding to a domestic violence call. If the officers perceived the physical violence to have eased or stopped, they believed the situation to be “under control.” One woman in Ferraro and Pope's study, despite having displayed burn marks around her neck from her husband putting her in a chokehold, was told by the police that because the incident was over, approaching her husband would only make more trouble. They said, “It will just get him riled up, and the baby's sleeping. Everything's OK right now” (p. 114). Ferraro and Pope argue that the law “translates battering into an offense that is evaluated in isolation from history and relationships” (pp. 114-115). Thus, police in their study did little to assess the likelihood of women's further danger or take further action as long as they believed everything was calm at that moment and a “semblance of order” was restored (p. 115).

Susan Miller (2001) examines the increase in the number of battered women “who find themselves arrested for domestic violence charges by an incident-driven criminal justice system that responds uniformly to cases of domestic violence without differentiating between the motivations and consequences of such acts” (p. 1340). Miller and others (see, for example, Hirschel and Buzawa, 2002) have shown that the number of battered women arrested for domestic violence has increased with the adoption of mandatory arrest or pro-arrest policies. Prior research, as discussed by Miller, illustrates that men often report using violence as a means of control and domination over their female partners, while women report they most often use

violence in self-defense or as protection from or retaliation for previous physical and emotional abuse. However, Miller found that the majority of criminal justice professionals and service providers working with domestic violence in the state of Delaware believe that police officers commonly do not explore possible motives for a person's use of violence or consider the occurrence of different types of violence in their quest to make an arrest. The majority of the justice system workers interviewed by Miller believed that battered women possess less power in their relationships than their male partners; yet, they believed the police often do not take these hierarchal power dynamics into account.

Researchers such as Miller (2001) and Hirschel and Buzawa (2002) argue that mandatory arrest and pro-arrest policies have led to an over-emphasis on violent incidents, which in turn has prohibited police officers from fully understanding the context in which much domestic violence occurs. For Miller, domestic violence policy needs to "address circumstances unique to women and to acknowledge the asymmetry of power in heterosexual relationships and the gender differences in fear, injury, and available resources and alternatives," something she argues mandatory arrest policies do not currently do (p. 1347). She concludes:

Although the police and the rest of the criminal justice system have—at least from a policy standpoint—answered the call to take battering more seriously, the tough-on-crime stance is not effective if it penalizes women when issues of self-defense or gendered power dynamics are not taken into account. (p. 1368)

Wittner's (1998) work helps to demonstrate battered women's frustrations with the failure of the courts to take the context of a woman's entire abusive relationship into account. At the court where she conducted her research, women

were often admonished to stick to the "facts" of the individual cases that brought them to court. However, as Wittner states, the women often argued with the court staff about what actions were viewed as chargeable offenses: "They wanted the lawyers to permit them to recount the history of the violent relationship instead of forcing them to decontextualize a violence event" (p. 86). The women often wanted to discuss the roles that drug or alcohol played in the relationship and the violence, or to discuss the necessity of counseling, but they commonly were denied this ability and allowed only to speak about the facts surrounding the incident of abuse.

Mandatory arrest and prosecution policies, originally created with the central goal of protecting battered women, not only fail to recognize the gendered nature of battering in heterosexual relationships, but also fail to consider the context of the relationship in which battering takes place. By focusing on individual incidents of abuse—most notably, physical abuse—the criminal justice system is not able to fully grasp the complexity of domestic violence. As a result, battered women either may not be permitted to discuss pertinent information about the history of their abusive relationship, or they are not heard when attempting to do so. Further, a failure by the police and other members of the criminal justice system to understand the gendered nature of battering and the role of power and control in abusive relationships has resulted in an increase of the arrest and prosecution of battered women.

#### Victimization and Agency.

Another discursive effect of domestic violence legal policy surrounds issues of victimization and agency. Mahoney (1992) argues that law forces upon us a "discourse of victimization." She states that "either you are on the playing field of

liberal competition, in which case you require no protection, or you prove into a category as a victim who is being kept off the field" (p. 1306). A key issue, as Mahoney (1994) and Schneider (2000) have demonstrated, is that in both legal and popular culture discourse, victimization and agency are understood in relation to each other. Mahoney (1994) writes, "In our society, agency and victimization are each known by the absence of the other: you are an agent if you are not a victim, and you are a victim if you are in no way an agent" (p. 64).

Schneider (1993) argues that the victim/agent dichotomy is pervasive in legal reform work for battered women. She believes that prevailing conceptions of both victimization and agency are problematic in that they are overly narrow and limited. For her, victimization claims, while an important means of drawing attention to a wrong or hurt and obtaining attention and compassion, are also connected with passivity and helplessness, particularly for women. Earlier in this chapter, I discussed the construction of the battered woman as the "pure victim," described by Davies, Lyon, and Monti-Catania (1998), which has become a significant aspect of domestic violence discourses. According to researchers such as Davies, Lyon, and Monti-Catania and Loseke (1992), this unified image of battered women was instrumental in establishing domestic violence as a serious and real problem in the 1970s. The "pure victim" representation portrays battered women as wives who adhere to traditional gender roles and who are economically and emotionally dependent on their abusers. They are depicted as passive and helpless. Under this construction, the only time they use violence is for self-defense. Further, battered women are portrayed as extremely fearful, if not terrified by the abuse they experience. This "pure victim" construction

has been central to the criminal justice system's understanding and representation of battered women. As Mahoney (1991) maintains, the court's version of what feminists have told them is that battered women are "pathologically weak" (p. 4).

Agency, on the other hand, has traditionally been "based on notions of individual choice and responsibility, individual will and action: perceptions of a world composed of atomized individuals, acting alone, unconstrained by social forces, unmediated by social structures and systemic hardship" (Schneider, 1993, pp. 395-396). As Mahoney (1994) points out, a central reason that this perception of agency is problematic is that under this framework, viewing a person as having agency obscures any recognition of subordination and oppression. Because agency means being completely *free* of oppression, there is no allowance for acts of agency *despite* or *under* the constraints of oppression.

Mahoney (1994) examines the issue of victimization and agency in the context of "exit." She argues that much of the criminal justice system's response to domestic violence is centered on the question of why a woman doesn't leave the abusive relationship. She writes, "women who seek love and survival for ourselves and our families are treated as if our only choices are to 'stay' or 'leave'" (p. 60). Staying in the relationship is often viewed as identical to victimization, while exiting the relationship is treated as synonymous with agency. For Mahoney, this view not only reflects a false dualism between agency and victimization, but it also makes false assumptions about the lives of battered women. She states:

Emphasizing exit defines the discussion of violence in ways that ignore the woman's lived experience and the personal and societal context of power, focusing instead on whether her responsive actions conform with social

expectation. The idea that women should leave—and that a woman acting in her own interest will always leave—is shaped by this atomistic view of agency. (p. 74)

According to Mahoney, this perspective fails to take into account the reality of many battered women's situations and the complexity of their relationships. As Schneider (1993) notes, ignored are the social, psychological, and economic factors that make leaving difficult; also ignored is the reality that many women are attacked and/or killed by their abusers after leaving the relationship.

Further, I would argue that this tendency of the criminal justice system to focus on exit reflects the fact that despite recent policy changes, criminal justice discourses (and arguably, mainstream domestic violence discourses as well), continue to be centered on the actions of battered women, as opposed to batterers. Prior to the battered women's movement, the dominant ideology and resulting criminal justice policy focused on what women did to cause the violence in their relationships. Current ideology and criminal justice policy focuses on whether or not a woman is going to leave the relationship. Despite this change, battered women's actions continue to remain central, and not the batterers.

As I discussed in Chapter Two, one of the arguments against mandatory arrest and prosecution policies is that they rob women of agency. While I would not disagree with this, I argue that the entire picture is actually more complex than this. In my view, mandatory arrest and prosecution policies are premised on the victim/agent dichotomy discussed by Mahoney (1994) and Schneider (1993). As a result of this, two things commonly occur. The first is that some women are viewed as "true" victims (or "pure" victims) while other women are positioned as



manipulative agents. Paradoxically, the second thing that sometimes happens is that women are often assumed to be helpless victims in need of rescuing, while simultaneously assumed to possess the complete free agency necessary for leaving the relationship and cooperating with the prosecution of their batterers. Before I describe how these two phenomena occur, let me say that missing from both, is any sense of the interrelationship between victimization and agency in women's lives. Mandatory arrest and prosecution policies fail to recognize oppression and social and structural constraints battered women face, yet they also often fail to recognize the ways in which, short of leaving, battered women are able to act for themselves in order to meet their needs and desires. Thus, acts of resistance are too often ignored, overlooked, or misinterpreted.

I will first examine how, though mandatory arrest and prosecution policies, women are often framed either as "real victims" or they are assumed to be somehow manipulating or abusing the criminal justice system. The victim/agent dichotomy that mandatory arrest and prosecution policies are premised on prohibits a more nuanced examination of women's lives and experiences. For example, Hanna (1996) reports the following in a training session she led attended by other prosecutors:

One prosecutor commented that he was always very suspicious of battered women who wanted to proceed with criminal prosecution because he assumed that they might be trying to manipulate the system or to gain an upper hand in a divorce or custody proceeding. Another responded that she only pursued cases in which the victim wanted to go forward because she assumed that a reluctant woman was either lying about the abuse or hiding something. (p. 1882)

Interestingly, while the two prosecutors held opposite opinions about what signified potential manipulation and/or lying by battered women, both seemed to classify some

battered women as true victims and others as liars or manipulators. As Hanna argues, women who choose to follow through with prosecution are "seen either as the true victims of domestic violence or as manipulators with an agenda," while women who do not wish to proceed with prosecution are "characterized either as agents in the battering—allowing it to continue because of their lack of cooperation with the state—or as true victims who have 'learned helplessness'" (p. 1883). Unmistakably, escaping the victim/agent dichotomy becomes difficult.

Similarly, Wittner (1998) examines battered women's experiences in a centralized domestic violence court in Chicago. The court workers she observed and interviewed believed that the court's biggest problem was the contradiction between those women with genuine and serious complaints, reflecting solid cases, who did not cooperate with the prosecution of their batterers, and those women with minor complaints and injuries who were very adamant about prosecuting and would come back to court many times, if needed, in order to ensure punishment of their partner. Court workers appeared to classify battered women as being either "true" helpless victims or as manipulative agents. Both attorneys and victim-witness advocates reflected beliefs that women who dropped cases tolerated abuse because they "just didn't know any better" or because "they don't have any self-worth" (p. 89). Alternatively, the court workers seemed to have a different perspective of women who were not viewed as "real" victims. Wittner states, "As for the women who bothered the court workers with trivial complaints or pursued hopeless cases, they seemed often to be misguided or vindictive women who abused the law for personal

gain: to get even with a straying husband; to fight a custody dispute; to force a man from his home" (p. 89).

Wittner argues that while the court workers' understandings of women's motives were taken from their daily encounters with the women, these understandings were mediated through both legal discourses and experience that provided only a partial picture of the women's lives. As such, workers were often not able to grasp the complex nature of the lives of the women who came through the court. Wittner writes:

Court workers rarely questioned the assumptions behind their condemnation of women's behavior. They did not wonder if there were sound reasons for dropping good cases or if a plausible argument could be made for persisting with weak ones....From within the discourse of the law, women were guilty for the failures of the court, either because they did not follow through on good cases, or because they wasted court workers' time and energy by using the law to settle non-criminal family disputes. (p. 89)

Again, the power of the victim/agent dichotomy is clear.

Another, perhaps more complex, product of the victim/agent dichotomy is that some battered women are assumed to be passive victims in need of rescuing, but are also assumed to have the total ability to cooperate with the criminal justice system and leave their abusive relationships. As I have already discussed, mandatory arrest and prosecution policies became common in the 1980s and 1990s, in response to the battered women's movement claim that the criminal justice system was not doing enough in its response to domestic violence (Mills, 1998). Additionally, many believed these policies served as a deterrent to future abuse, and helped address the issue of victim "non-cooperation" in the prosecution of batterers. The latter has been achieved because under mandatory policies, battered women most often do not have a

say in whether or not their batterer is arrest and/or prosecuted; they are effectively removed from the decision-making the process. Thus, arrest and prosecution may take place even if the victim is reluctant or refuses to aid in the process.

One argument in favor of removing women from the decision making process is that redefining domestic violence as a crime against the state communicates the severity of the crime and indicates the state's willingness to take it seriously.

However, returning to Bacchi's (2000) framework, when conceiving of policy as discourse, one must also consider the way in which subjects and subjectivities are constituted by policy. I argue that policies that take away battered women's role in the decision making process assume that the state know what is best for women, and thus prohibit them from acting in their own self-interest. Premised on the battered women as "pure victims" construction, such policies presume battered women are helpless, unable to care for themselves, and are in need of state intervention to be rescued from their inability to make "good" decisions. Yet, there is an underlying assumption in these policies that battered women are able to do whatever necessary to leave their relationships and fully cooperate with the criminal justice system, and that doing so is in their best interests.

Baker's (1997) work illustrates the contradictions inherent to the criminal justice system's response to woman battering surrounding agency and victimization. In place of the pre-battered women's movement, mainstream view that battered women should stay with abusive partners, Baker maintains that a new discourse has emerged. She writes:

For battered women who participate in social and police services designed to help them, a dominant cultural script has emerged. Learned through interactions with providers of services, mass media, police, and friends and altered by the context, past experiences, and the immediate and future needs of individual women, this "new" script includes edicts like leave abuser, maintain restraining orders, and call and cooperate with the police. (p. 56)

Thus, for battered women who become involved in the criminal justice system, there exists an underlying assumption that the best thing for them is to: (1) leave and stay away from their batterer; and (2) cooperate in the arrest and prosecution of their batterer. And, under mandatory arrest and prosecution policies, most battered women have little to no say about their involvement in the criminal justice system.

After conducting in-depth interviews with sixteen battered women, Baker found that the women tried to use the dominant cultural script and follow its mandates, but they found it to be constraining and limiting in its narrowness. Several women left their abusers but continued to be verbally harassed and/or followed by the men. One woman's ex-partner called her repeatedly despite the fact that continually changed her number (and paid each time to do so). However, this woman was told by the police there was nothing they could do about the calls unless she documented them, and she could not afford a device that would allow her to do this. She finally agreed to meet with her abuser so he would stop harassing her and they ended up reconciling. Other women in Baker's study, particularly those with children, discussed the difficulties in making it financially after leaving their abusers. This often prompted them to return to their partners for the children's sake. Still other women reported that calling the police about their partners' violence was difficult

because they feared retaliation by their partner and/or police officers were often rude and/or ineffective.

Thus, Baker argues that in spite of recent legislative changes, battered women still face limited institutional support for their decisions. The social-service, law enforcement and legal systems did not provide the help that these women needed for them to resolve their problems in a manner deemed successful to them. She maintains that there are three problematic aspects of the dominant cultural script directing battered women to get away and stay away from their batterers. One, the script assumes that leaving and staying away from abusive partners is always the best choice for women, and fails to acknowledge both that women have varying needs and interests, and that leaving is often dangerous for battered women. She states that a consequence of this assumption is that "women who feel it is in their best interest to stay are not given an array of choices for help because policies and programs for women who stay are rare" (p. 71).

A second problematic aspect of the script for Baker is that it is directed solely toward the victim, as she is told she has to leave and stay away. The script assumes that for the violence toward her to stop, the woman must change her behavior. Like Mahoney (1994)--whom I discussed previously in this chapter--Baker also finds it problematic that there is an overemphasis on women's actions in discussions of solutions to domestic violence. She argues that a more useful response would be to focus on changing the batterer's behavior and stopping his violence: "In this way the women would be able to continue to lead their lives and make their own choices instead of being pulled out of their milieu and pushed into a system that makes



decisions for them while not providing effective support for those decisions" (p. 71). Finally, a third problem with this script for Baker is that it is too directive. She writes, "Edicts like leave your partner, call the police, go to a shelter, and seek counseling and policies like mandatory arrest and prosecution create ways in which battered women lose control and choices" (p. 71). Baker demonstrates how the script not only fails to acknowledge the complexity and difficulties of individual battered women's lives but also lacks the coordinated institutional support battered women need in order to successfully follow it.

Baker's research reaffirms Mahoney's (1994) argument that women's staying in an abusive relationship is often viewed as identical to victimization, while exiting the relationship is treated as synonymous with agency. Mandatory arrest and prosecution policies are premised upon this assumption. Again, this view is problematic in that it ignores structural constraints women face when attempting to leave an abusive relationship, but it also reproduces a false dualism between agency and victimization, as Mahoney argues. As such, mandatory arrest and prosecution policies fail to recognize battered women's acts of agency outside of both leaving the relationship and full cooperation with the criminal justice system. Battered women's acts are often not interpreted as evidence of agency and/or resistance, but as signs of women's victimization and passivity. Ferraro and Pope (1993), in their examination of police officer's responses to domestic violence report that one officer told them he always asked battered women why they stayed with their abusive partners. He said one woman replied, "I guess I'm just stupid," and his response was, "I guess you are" (pp. 113-114).

As theorists such as Mahoney and Schneider (1993) argue, victimization and agency are not extremes in opposition, but instead are interrelated aspects of women's experience. Women are not either an agent *or* a victim, as the dualism suggests—they may be both at the same time. Schneider argues that a more complex and contextual portrayal of the interrelationship between these two forces in women's lives is necessary. She states:

We must seek to understand both the social context of women's oppression, which shapes women's choices and constrains women's agency and resistance, and also recognize women's agency and resistance in a more nuanced way. This means that we reject simple dichotomies, give up either/ors, learn to accept contradiction, ambiguity, and ambivalence in women's lives, and explore more "grays" in our conceptions of women's experience, rather than seeing only "blacks" and "whites." (p. 397)

Many researchers have demonstrated ways in which battered women have shown agency, outside of either leaving the relationship and/or full cooperation with the criminal justice system. Linda Gordon (1993) examines battered women's attempts to exercise agency at the end of the nineteenth century and beginning of the twentieth century. She found simply because women "did not conduct a head-on challenge to their husbands' right to hit them does not mean they liked being hit or believed that their virtue required accepting it" (p. 131). Instead, these women often actively resisted assault by doing things such as fighting back, running away, calling the police, contacting child welfare agencies, and embarrassing their husbands in public.

A more current example is found in Baker's work (1997). She argues that staying with an abuser, ignoring and lifting restraining orders, and refusing to call and cooperate with the police serve as battered women's acts of resistance and

recognizing this "is an ironic, yet powerful, way to emphasize that these women were making active, reasoned choices by going against the cultural dictate to get away and stay away from their abusers" (p. 57). Baker maintains that the women she interviewed were exercising as much agency as possible considering the failure of the system to provide them with safety and resources.

Wittner (1998) also makes a similar argument in her work. She argues that determining why a battered woman decides to cooperate with the prosecution of a case or not, is not the real issue: "instead, it is necessary to place these decisions within an extended history of the power relations that led to them and that emanate from them" (p. 92). Wittner found that battered women often used the court to win support for their own claims and strategies. One woman did not show up for her last court date because she found that calling the police on her batterer was enough to get him to move out of the house. Another woman pursued what was perceived by court officials as a hopeless case because she wanted a record of her abuser's actions.

Wittner states that while the criminal justice system often silences women and subjects them to its control, the domestic violence court "also became a resource which women used to their own advantage, an ally in their quest to establish control in relationships in which they had been relatively powerless" (p. 83).

David Ford's (1991) work also illustrates a creative way that battered women show acts of agency and resistance. He demonstrates that many women use the prosecution process for reasons beyond punishing their abusive partners—for some women, prosecution served as a power resource. The mere threat of prosecution often served to deter batterers from future violence. Thus, women often bargained for

security using the threat of prosecution and when they believed they had accomplished this, they abandoned the prosecution process. For example, one woman's husband threatened to kill her and their three children. She reported that while she did not know what to expect from filing charges, she hoped he would receive psychiatric care and she and her children could get obtain their possessions and move out of the house. A month after filing the initial charges, she showed up at her husband's arraignment and requested the charges be dropped. She told the interviewer the reason that she agreed to drop the charges was because her husband agreed to their separation and he also agreed to get counseling on his own.

Still another woman in Ford's study reported that she had earlier bargained for safety under threat of prosecution, but when her partner reoffended, she later participated in his prosecution to prove to him she would follow up on her end of the bargain. While to some outside observers battered women who drop charges against their abusive partners may simply be capitulating to the batterers' demands, Ford concludes otherwise. He writes:

For many battered women prosecution is one of the few resources they have to gain control over their own circumstances. In making a significant threat to prosecute by initiating the steps to invoke the process, a battered woman is able to exercise power that was previously missing in her relationship. She uses that power in the hope of gaining security by demonstrating that *she* is the one in charge and that only *she* can alter events which are destined to bring a man to court and possibly to jail. Thus, she gains leverage for managing the conflicts in her relationship. (p. 331)

Thus, for some battered women, exercising control at various stages of the prosecutorial process is empowering, even though members of the criminal justice system often fail to see this.<sup>3</sup>

## Summary

As I have demonstrated, an examination of hegemonic constructions of the battered woman in both mainstream domestic violence discourses and criminal justice policy, reveals that the subjectivity of battered women is limited. They are constituted either as helpless victims, or as manipulative free agents. Battered women's actions and words are filtered through the victim/agent dichotomy and are read as either proof of their inability to care for themselves or as proof that they are lying and attempting to deceive the system. Further, in domestic violence legal discourses, agency is often equated with leaving the abusive relationship and cooperating with the criminal justice system. This perspective fails to take into account various social and cultural factors that make this difficult—if not impossible—for some battered women. Thus, attempts of battered women to resist the violence in their lives and empower themselves go unrecognized. Many theorists and researchers have argued that moving away from restrictive notions of victimization and agency is vital to fully grasping women's experiences. As Schneider (2002) argues, "it is crucial to understand that these concepts are socially constructed and that women's experiences can be envisioned and interpreted in a different way" (p. 83).

This chapter has also demonstrated that current mainstream understandings of domestic violence are often removed from a political analysis of battering. As such, the gendered nature of battering in heterosexual relationships and the power dynamics that co-exist with battering have been erased from hegemonic domestic violence discourses. Missing is any sense of how abusive men often use tactics verbal,

psychological, emotional, and economic abuse—in addition to physical abuse—to threaten, isolate, and control their partners. Instead, domestic violence discourses in general, and mandatory arrest and prosecution policies in particular, over-emphasize individual incidents of violence. This has had serious repercussions for battered women; not only have they been arrested for defending themselves, but the system has failed to fully address the context in which the violence that they experience occurs. Thus, many abused women have had difficulty fully remedying their situation.

Before concluding this chapter, I wish to make an important point. The criminal justice system is by no means a monolithic or unified institution. Just as Brown (1995) stresses that the state is an “ensemble of discourses, rules, and practices, cohabiting in limited, tension-ridden, often contradictory relation with one another” (p. 174), so is the criminal justice system (as part of the state). As such, individual actors or agents of the criminal justice system may reflect particular aspects of the criminal justice system’s power or interests, but they may also challenge or resist them. To speak of mandatory arrest and prosecution policies as representing and constituting battered women in specific ways, with certain effects, does not mean that all workers in the criminal justice system engage in this process, unaware and oblivious. In fact, as I will discuss in the next chapter, the interviews with prosecutors in my research reflect that prosecutors, as agents of the criminal justice system, have a very complex relationship to domestic violence discourses; sometimes they appear to support mainstream constructions of battered women,



sometimes they challenge these constructions, and sometimes they do both, simultaneously.

In this chapter I began to examine the three general categories of discursive effects of domestic violence discourses, as discussed by Bacchi (1999): (1) the ways in which subjects and subjectivities are constituted in discourse; and (2) the effects following from the limits imposed on what can be said; and (3) the 'lived effects'—or the material implications of discourse. At this point, I have depicted the current state of hegemonic domestic violence discourses and demonstrated the way it has constructed the battered woman. The next four chapters—my data chapters—continue the examination of dominant cultural narratives surrounding woman battering, based on Bacchi's categories. Specifically, in order to continue to examine the relationship between discourse and subjectivity and to better understand the implications of domestic violence discourses in the "real-world," I will explore how the experiences of both prosecutors who work with domestic violence and battered women, themselves, are mediated by domestic violence discourses.

## NOTES

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<sup>1</sup> A recent exception to this is a "human rights approach" which uses an international human rights framework to argue that all persons should be able to live their lives free of violence (Miller and Faux, 1999). This perspective is explicitly political, as it focuses on state responsibility to respond to domestic violence.

<sup>2</sup> As Brown (1995) states, "the masculinism of the state refers to those features of the state that signify, enact, sustain, and represent masculine power as a form of dominance" (p. 167).

<sup>3</sup> Further implications of the ways in which prosecutors view women's lack of cooperation with the prosecutorial process will be discussed in Chapter Four.

## CHAPTER FOUR

### **Constructing "Institutional Selves": Domestic Violence Discourse, Prosecutors, and Battered Women**

In this chapter, I continue to explore the relationship between domestic violence discourses and the criminal justice system. Specifically, I examine how prosecutors working on domestic violence cases in Lanville, Rockford County, and Easton County, as agents of the state, "interact with" domestic violence discourses. As a model, I use Little's (1999) work that examines how a hegemonic "dependency discourse" functions in a welfare-to-work program and the way in which staff drew from the discourse. As I discussed in Chapter One, Little's interest focused on the "sources and processes of resistance to a hegemonic discourse" and one of her goals was to explore how the institutional framework enabled and constrained resistance (p. 166). Little recognizes that while the staff of the welfare-to-work program often bought into aspects of dependency discourse, they did not accept all of its premises—thus, a central question for her is: "How and why are staff able to reconstruct dependency discourse within the daily operation of workfare programs?" (p. 168).

Just as dependency discourse provides the "interpretative framework" (Fraser, 1989; Little, 1999) for the staff of welfare-to-work programs, domestic violence discourses—primarily, criminal justice policy—provide the interpretative framework through which prosecutors make sense of battered women. According to Spencer (2001), in human service agencies, "staff members and clients alike find themselves assembling the biographical particulars of clients' selves in order to dispense the agency's services" (p. 158). Institutional discourses are central to these processes.

While the criminal justice system is, in some ways, different from other human service agencies, there are similarities in the way that "institutional selves are needed to conduct institutional business" (p. 158). Thus, I will examine how prosecutors in the three jurisdictions in my study draw from the institutional discourses of the criminal justice system in their work with abused women. While Little (1999) was most interested in how welfare-to-work staff resisted and reconstructed dependency discourse, my scope is broader: I pay careful attention to not only the ways prosecutors challenge and reformulate mainstream constructions offered by domestic violence discourses, but also to the ways they accept and support them.

The connection between subjectivity and discourse that I have previously discussed is not just relevant to an examination of the identity of "battered woman," but also to the identity of "prosecutor." In other words, just as domestic violence discourses construct and situate battered women in particular ways, it does the same for prosecutors. All of the "players" in the field of criminal justice response to domestic violence—battered women, batterers, judges, victim's advocates, police and prosecutors—are embedded in the relationship between subjectivity and discourse. Thus, while criminal justice policy—as a part of domestic violence discourses—impacts how prosecutors view and interact with battered women, it also shapes and limits what prosecutors may do or say.

### **Prosecutor Interviews**

To review, this data is drawn from interviews with twenty-one prosecutors from four different sites in three jurisdictions: six prosecutors from the prosecutor's office in Easton County, three prosecutors from the district attorney's office in

Rockford County, four from the district attorney's office in Lanville, and eight from the city attorney's office in Lanville.<sup>1</sup> Table 1 presents information on whether or not each office has a specialized domestic violence unit and on the types of arrest and prosecution policies in place in each district.

Table 1

Information on Prosecutor Offices

	<b>Rockford County DA's Office</b>	<b>Easton County Prosecutor's Office</b>	<b>Lanville District Attorney's Office</b>	<b>Lanville City Attorney's Office</b>
<b>Specialized DV Unit?</b>	Yes	No	Yes	Yes
<b>Type of Arrest Policy in Place?</b>	Mandatory Arrest Policy	Pro-Arrest Policy	Mandatory Arrest Policy	Mandatory Arrest Policy
<b>Type of Prosecution Policy in Place?</b>	Official No-Drop Policy	"Informal" No- Drop Policy	Official No-Drop Policy	Official No-Drop Policy

The office in Rockford County and the two offices in Lanville have specialized domestic violence units, while the office in Easton County does not. As such, the majority of the prosecutors interviewed (twenty-one total) worked solely on domestic violence cases. Both Rockford County and the city of Lanville have strict mandatory arrest policies, given probable cause that a crime was committed. Easton County has a "pro-arrest" policy. While arrest is not mandatory, officers are strongly encouraged to make an arrest if the assailant is present and if they have probable cause. Officers have to fill out paperwork explaining failure to arrest. Easton County does not have an official do-drop prosecution policy—several of the prosecutors did say they had an "informal" no-drop policy. Officially, all three attorneys' offices in Rockford County and Lanville had no-drop prosecution policies, although it is interesting to note that

not all of the attorneys interviewed from the city attorney's office in Lanville were aware of this—several indicated their office did not have a no-drop prosecution policy. Finally, while the official policy of all three attorneys' offices in Rockford County and Lanville was to prosecute cases with or without victim "cooperation," prosecutors from all three jurisdictions stated that sometimes they were forced to drop cases due to lack of evidence. Thus, despite uniform policy, the likelihood of prosecution of a person charged with some form of domestic violence ultimately rested on the attorneys' ability to make the case that a crime was committed.

Many of the prosecutors whom were interviewed reflected the belief that domestic violence cases are very complicated cases that are challenging to prosecute. For example, one prosecutor from Rockford County stated that he believes he has the most frustrating job in the office. Another prosecutor from the Lanville district attorney's office classified domestic violence as the "most difficult" type of cases to handle. And a third prosecutor from Easton County said she "dreads" domestic violence cases. Several of the prosecutors indicated that these are "no-win" cases in which almost everyone ends up mad at them. One prosecutor in Rockford County reported believing he is hated by everyone: defendants for obvious reasons, defense attorneys because his plea-bargains are tougher than most, and victims because many want to recant. He stated that he has been accused by some victims of abusing children and breaking up families. Another prosecutor from the Lanville city attorney's office reported that there are a lot of conflicts between the victims and the prosecutors. Similarly, a prosecutor from the Easton County prosecutor's office stated that domestic violence cases are the only type where you have to regularly deal

with the antagonism of the victim. When this happens, she said, "you're fighting everyone involved."

In Chapter Three, I argued that domestic violence criminal justice discourses—in particular, mandatory arrest and prosecution policies: (1) fail to take into account the context in which the abusive relationship occurs (including the gendered nature of the relationship and the issues of power and control inherent to abusive relationships); and (2) are premised on a false dichotomy of agency and victimization. The prosecutors' comments about why they believe these cases to be so challenging and difficult and their assessments of domestic violence victims in general, both support and challenge these discursive effects.

#### Loss of Context of Relationship

To review, physical abuse is strongly tied to economic abuse, coercion, threats, intimidation, isolation, emotional abuse, and abuse of male privilege (Schneider, 2000). However, as I have argued, domestic violence legal policy is often unable to account for this. In the previous chapter I discussed how domestic violence criminal justice policy and the criminal justice system in general, overemphasize acts of physical violence. Under mandatory arrest and no-drop policies, a batterer is arrested and prosecuted on the basis of the existence of evidence that a crime was committed. The criminal justice system focuses on whether or not physical injury has occurred. Battering thus becomes reduced to an individual incident which the criminal justice system responds to by arresting and prosecuting the offender. Lost are the overall context in which the crime occurs and the gendered dynamics of power and control.



Over three-quarters of the twenty-one prosecutors did not mention issues of power and control or the cycle of violence at any time throughout their interviews. Most of the prosecutors that did mention these issues did so briefly or in passing. For example, one prosecutor from the Lanville district attorney's office said the following when describing her overall impression of offenders: "Manipulative and controlling.....very good at gaining power and control so that victims don't report or don't follow through." The majority of prosecutors also failed to offer any sort of explanation of domestic violence that addressed the larger context in which many theorists believe abusive relationships occur (although clearly, this does not mean that all of the prosecutors are necessarily unaware of the relationship between domestic violence and larger social forces).

However, one prosecutor from Rockford County was particularly aware of the criminal justice system's inability to take the full context of an abusive relationship into account when prosecuting domestic violence cases (although he did not see this as a function of mandatory arrest and prosecution policies, which he was supportive of). He stated that prosecuting domestic violence in "US snapshot courts" is hard:

They want to prosecute based on a snapshot in time, one single event occurring in a single instance, like a bar brawl. This rarely applies to domestic violence because it is a process, a cycle, involving lots of different type of abuse that precede the physical act. Courts have been resistant to hearing about these other types of abuse—verbal, mental, emotional—because if the jury saw evidence of the whole cycle they would most likely convict the defendant based on this behavior. Seeing that he was emotionally abusive for years would paint a picture of him as a bad guy. So courts keep this information out of the prosecution process but this information is really very pertinent.

Further, very few prosecutors spoke specifically about gender dynamics or the gendered nature of violence; interestingly, however, almost all of them spoke of

victims as women and offenders as men. The exception to this was five prosecutors, all of whom stated at some point that women are sometimes offenders. Consider the comments of one prosecutor from the Lanville city attorney's office:

It's tough because you don't always have a clear victim and a clear defendant. When you start in this, you look at things black and white. Later, you see a lot of blending in terms of conduct. It's not as clean as the media makes it out to be. There are other factors that make it difficult. There are cases where it goes both ways—back and forth—violence on both sides.

Still another prosecutor from the Lanville city attorney's office stated that the majority of offenders are men, but "we are seeing more and more women offenders."

And a third prosecutor from the Lanville city attorney's office said that he was finding at least 1/10 or 1/8 of the offenders are female but that in the Hispanic community, even more women are offenders and he was very surprised by this.

While very few prosecutors discussed unequal gender dynamics or issues of power and control, they did mention a wide range of factors that they attributed to causing domestic violence or at least correlating with it. These included poverty, a lack of education, witnessing family violence, infidelity, mental health issues, criminal mentality, and alcohol and drugs. Clearly, many of the prosecutors seemed to believe that domestic violence is correlated to socioeconomic status. More than a few prosecutors also spoke of domestic violence as being a part of "human nature." One prosecutor said that to help end domestic violence, "human relationship classes are needed to develop better habits." Another stated that abuse in our society "is built in." He continued by claiming, "There just are abusive men and women." Still another stated that domestic violence is "an incurable thing that can only be treated and hopefully controlled—like diabetes." Schneider (2000) and others have argued

that the criminalization, psychologization and pathologization of domestic violence has detached the consideration of woman battering from its original feminist foundations. Woman battering is viewed as an issue of crime control, mental health, or through the lens of broader family and societal violence. These perspectives fail to take into account issues of women's equality. The prosecutors in my research confirmed this tendency. Their comments demonstrate that very few, if any, of them view domestic violence as an issue of gender subordination.

Several of the prosecutors did discuss the relationship between domestic violence and broader social issues, such as the fact that domestic violence is too commonly accepted in the U.S, and the fact that many people view it as a private matter, not of public concern. One prosecutor from Rockford County said the following:

...statewide and nationwide, the response is way too lenient. There is not enough organized response. This is often due to the controversy regarding the role or importance of women in society. The press often doesn't label domestic violence cases correctly—murder cases are often not associated with domestic violence. They need preventative and punitive structures. There is little funding for intervention.

Still another prosecutor said that domestic violence "is an accepted social norm in some segments of society and in some cultures." However, again, even though some prosecutors spoke of the prevalence of domestic violence in the U.S. and attributed this to various social factors, gender hierarchies were never directly mentioned or discussed.

### Victim/Agent Dichotomy

I will now turn to a discussion of the next theme that emerged from my discursive analysis of domestic violence criminal justice policy—the victim/agent dichotomy. Earlier, in Chapter Three, I argued that mandatory arrest and no-drop prosecution policies result in two related discursive effects. First, some women are viewed as “true” victims (or “pure” victims) while other women are positioned as manipulative free agents. And second, women are often assumed to be helpless victims in need of rescuing, while simultaneously assumed to possess complete free agency. The words of the prosecutors illustrate that, through their interaction with domestic violence discourses, they participate both in the production and disruption of these effects.

About one-third of the prosecutors seemed, at some point, to reflect the “pure victim” construct in that they portrayed victims as passive, childlike, emotional, and/or helpless. One prosecutor from Rockford County referred to victims as “lost souls” whom she felt “very sorry for.” A prosecutor from the Lanville city attorney’s office said the following of victims:

I feel sorry for them. They’re at a point where they are like civilian prisoners in a concentration camp. They have learned to live with misery. They are so used to it that it becomes naturally occurring. The victims are imprisoned by their own lack of utility and inability to break out. It’s not their fault, but victims often need a lot of help securing resources and gaining confidence.

Still another prosecutor from the Lanville city attorney’s office, when asked about his overall impression of victims said, “The saddest thing I’ve ever seen.” One Easton County prosecutor stated that domestic violence cases require “more hand-holding” than other criminal cases. And a second Easton County prosecutor says he doesn’t

like dealing with the victims' "shifting emotions inherent in these cases." Comments such as these indicate that prosecutors often view battered women not just with sympathy, but with pity. As I discussed in Chapter Three, an essential aspect of the "pure victim" construct involves portraying battered women as if they need to be rescued or saved by the criminal justice system because they are unable to save themselves. The words of one Rockford County prosecutors reflect this attitude. He stated: "There's nothing better than giving a victim her self-esteem and life back. At the same time, it is very discouraging why some victims just don't get it. We're bending over backwards to help them and their kids and they don't get it."

Some of the prosecutors distinguished between what they perceived to be "true" or "real victims" and some other type of victims—presumably, false ones. For example, when asked about her overall impression of victims, an Easton County prosecutor stated, "Most are TRUE victims." This highlights the fact that commonly, prosecutors do reinforce mainstream discourses that constitute battered women either as "real" victims or as manipulative agents. Recall that both Hanna (1996) and Wittner (1998) found that court workers believed there to be a distinction between those women with real and serious complaints and those women who came to court with other motives, such as to gain the upper hand in a divorce or custody battle. The prosecutors in my study sometimes reflected similar sentiments. A prosecutor from Rockford County said, "Cooperative victims may be vindictive and file a lot of motions to try and get the abuser." One prosecutor from the Lanville city attorney's office said that when there's a divorce and custody battle, domestic violence charges seem to be quite a weapon. He stated he believed that in 50% of custody cases,

someone makes a charge of domestic violence to gain an advantage. Still another prosecutor from the Lanville city attorney's office said: "There are women who try and play the system—a very small percentage, but you have to watch out for it." And a third prosecutor from the same office stated that some people "affix" the label of victims to themselves.

Interestingly, several prosecutors claimed knowing if someone was a "true" or "real" victim based on their level of cooperation with the prosecution process. One prosecutor from the Lanville city attorney's office stated: "Victims who are recanting, I know that they are the true victims, but sometimes there is not much you can do." Similarly, some prosecutors expressed preferences for working with a particular type of victim, although the type of victim preferred and the reasons behind the preference differed. For example, several prosecutors said they prefer working with uncooperative victims. Of these victims, one Rockford County prosecutor stated:

Uncooperative victims often change their story halfway through the case. They usually plan a "new" story with the defendant and don't get the details or specifics straight. They get facts wrong on the stand, present spotty timelines, and their body language usually indicates they are lying. It's much easier to poke holes in their stories. This scenario is helpful for DA's. Police officers can testify about what the women said originally. Experts can testify as to why the women might change their story. We can show a picture of them as the "typical" battered woman and then juries are more likely to convict.

Another Rockford County prosecutor reflected a similar sentiment. He said that if the victim appears to be over-cooperating with the prosecution, he tries to "tone her down a little" since juries don't like victims who cooperate "too zealously." And an Easton County prosecutor commented that "the ideal victim on the stand is one who is meek."



The above statements illustrate the power of the "pure victim" construct, and its influence on both juries and prosecutors. Some of the prosecutors who appeared to buy into this construct expressed sentiments that battered women are helpless and weak and need to be rescued. Other prosecutors reflected the belief that while there are some women who are "pure," "true," or "real" victims, there are other women who are just out to use the criminal justice system for personal gain. As Mahoney (1994) argues, under the victim/agent dichotomy, there is no room to recognize the relationship between agency and victimization. Under this framework, if one is a victim she is not an agent, and vice versa. Thus, women viewed as displaying signs of agency (i.e. manipulating the system) were denied victim status by the prosecutors. Further, several prosecutors recognized the power of the "pure victim" construct in helping to persuade a judge or jury that a crime was committed. As Dunn (2001) argues, "Judges, prosecutors, advocates and others attribute responsibility to the victim as they confer identity, and they do so on the basis of a victim's behavior and demeanor" (p. 207). Clearly, prosecutors often draw from dominant discourses about battered women in their work, thus reinforcing the effects of these discourses and the way battered women are constituted by them.

However, not all prosecutors wanted to make generalizations about victims, and as such, on some level they resisted the constructions of the battered women created by hegemonic domestic violence discourses. This resistance was never overt. In other words, no prosecutor criticized or critiqued mainstream representations of battered women. But consider the comments of one prosecutor from the Lanville district attorney's office, when asked about her overall impression of victims: she

stated that there is a "huge range of types" and that "you just can't make judgments." When asked the same question, another prosecutor from that office said that she has dealt with every kind of person: "They come from all racial and economic backgrounds. I have dealt with cooperative and hostile victims. Some victims are very aware and others are not. It crosses all lines." This prosecutor directly challenged the common belief—seemingly held by many of the others prosecutors—that domestic violence is linked with poverty and lack of education.

A few prosecutors went a bit further in their resisting of mainstream domestic violence discourses and ensuing representations of battered women than simply refusing to make generalizations about battered women. Instead of mirroring ideology depicting battered women as helpless victims who need to be rescued or as manipulative agents wasting the courts time, several prosecutors portrayed battered women in ways that directly challenged these constructs. For example, a prosecutor from the Lanville city attorney's office said the following: "I've been doing this for a good number of years. Domestic violence victims are truthful." An Easton County prosecutor stated of victims: "They need to have a comfort level. They need to have their questions answered and to be heard. They need to understand the criminal justice system and not be re-victimized. They do not need to be manipulated. They have to be treated with respect." This prosecutor continued by stating that she hopes to empower victims and, if the victim doesn't want to be involved in the prosecution process, figure out how to continue the case without condemning the victim. While sentiments such as these were rare, they do demonstrate that there is some room for

manipulation of mainstream discourses by workers in the criminal justice system; not all agents of the state view or define battered women in uniform ways.

The second discursive effect of the victim/agent in mainstream domestic violence discourses that I have discussed is that sometimes battered women are viewed as helpless victims in need of rescuing, but are also, at the same time, assumed to possess complete free agency to leave their abuser and cooperate with the criminal justice system. All twenty-one prosecutors seemed to think battered women should always leave their abusers and that involvement in the criminal justice system is the best way to achieve this goal. This is not too surprising given the recent societal trend of criminalizing domestic violence. It makes sense that workers in the criminal justice system would support viewing domestic violence as predominantly a criminal matter. Further, it also makes sense that overwhelmingly, prosecutors believed the biggest factor that makes domestic violence cases so tough is uncooperative or recanting victims. One prosecutor from Rockford County stated that victims are the best and worst part of the job. He continued by saying that it's frustrating to have a victim with two black eyes want to drop the charges; he reported thinking that 50% of victims want to drop charges after one week and 80% of victims want to drop charges after one month. Another prosecutor from the Lanville district attorney's office stated of victims: "Most come to court reluctantly. Most want to recant, to convince you that it didn't happen. Many are willing to go under oath and say it didn't happen. Very few say that it happened and that they want to see it through." Other comments from prosecutors include: "the victims don't cooperate,"

"the amount of cooperation from the victims is minimal," and "domestic violence victims will frequently recant or not cooperate..."

Almost all of the prosecutors expressed their strong support of policies encouraging or mandating arrest and prosecution in domestic violence cases. A prosecutor from the Lanville district attorney's office commented, "Overall, the system is doing the right thing with the mandatory arrest and no-drop policies." Another prosecutor from the Lanville city attorney's office stated that "we shouldn't dismiss (cases) because she (the victim) says so." In Easton County—the only jurisdiction without a no-drop prosecution policy—one prosecutor was very critical of the fact that they couldn't proceed with prosecution if the victim doesn't show up. She believed case dismissals were a huge problem for their office due to this requirement. She stated that she encourages victim involvement by sometimes threatening perjury against women who say the violence happened but then don't want to go forward with the case.

Those prosecutors that did question mandatory arrest and no-drop policies did so either because they believed them to be harmful in some way for the victims and/or offenders, or because they wanted to retain the discretion to drop a case for a lack of evidence.<sup>2</sup> Only two of the twenty-one prosecutors expressed doubt about policies that encourage or mandate arrest and prosecution despite the victim's wishes because they believed them to have a negative impact on the victim. An Easton County prosecutor reported that she has "mixed" feelings about victimless prosecution (a term describing prosecution without the victim's consent or cooperation). This prosecutor stated that people need to decide to get help on their

own. Another prosecutor from Easton County stated that while their office does dismiss a lot of cases, "this if OK, however, because some victims simply aren't ready to pursue their cases." Two other prosecutors questioned mandatory/uniform policies because of the potential impact they may have on the offender. A prosecutor from the Lanville city attorney's office said that mandatory arrest policies border on being too harsh since people are automatically arrested. He believed police officers need to be given more discretion in assessing the situation since arrest has profound impacts on everyone's life. And another prosecutor from the Lanville city attorney's office stated:

I don't know if you can categorize everyone in the same....I don't know how to explain it. There are ones that are classified as domestic violence that should be treated harsher, and some that certainly should be treated not on the same par as domestic violence. [In those cases, what should they be treated as?] Well, certainly criminal, but requiring 36 weeks of counseling is a problem.

A few other prosecutors questioned no-drop policies on that basis that they believed in the importance of giving prosecutors the discretion to not pursue weak cases in which evidence was lacking. For example, one prosecutor from the Lanville city attorney's office called no-drop policies "preposterous" and evidence that victims' advocates are "calling the shots." He indicated that there is pressure from his superiors to prosecute all cases: "A lot more cases go to trial than they should because you don't want to get yelled at. You take some bad cases to trial." Another prosecutor from the Lanville city attorney's office stated that there cannot be a uniform policy regarding prosecution because "it has to be up to the discretion of the attorney."

Clearly, the majority of prosecutors were supportive of uniform policies taking discretion away from battered women. Only one or two prosecutors appeared to be concerned that these policies take away control and choice from battered women; for most prosecutors, the prosecution of batterers by the criminal justice system is a positive thing that battered women should support. A prosecutor from Rockford County said the following: "Some victims are reluctant at first, but will later turn around and take advantage of services offered to them. They will then see what the criminal justice system does is right." This prosecutor frames women's reluctance to participate in the criminal justice system process as an inability to see that what the criminal justice system does is "right." Another prosecutor stated that victims who don't cooperate and show up for trials tend to reinforce, rather than discourage, defendants' actions. Prosecutors who reflect this type of sentiment appear unable to recognize structural constraints that impact and limit battered women's ability to cooperate with the criminal justice, or at least expect battered women to cooperate despite such factors. The lack of cooperation by battered women is deemed to be a sign of individual weakness of the battered woman, not as a flaw in the system.

In Chapter Three, I discussed work by both Ford (1991) and Wittner (1998) that suggests that prosecution may be a power resource for battered women. They argue that abused women sometimes decide not to go through with the prosecution process because they are able to use initial involvement in the criminal justice system and/or the threat of prosecution as a bargaining tool for safety. However, while not directly asked about this, none of the prosecutors in the interviews to which I had



access recognized or gave credence to this possibility. There seemed to be a shared belief by many, if not all, of the prosecutors that completion of the prosecutorial process is central to what they defined as "success."<sup>3</sup> Prosecutors continually expressed frustration over what they deemed as a lack of cooperation by battered women. While some of them indicated an understanding that sometimes women refuse to cooperate out of fear, not one of them suggested a woman might drop out of the prosecution process because her needs had already been met. Thus, it appears that the majority of the prosecutors hold an "all or nothing" type attitude and that the outcome of the case is more important than any benefit a woman may gain by simply having the criminal justice system involved (even if she refuses to participate in the full prosecution of her abuser).

Interestingly, many of the prosecutors did view the criminal justice system as limited in its ability to effectively address and stop domestic violence. These prosecutors either were critical of individual actors within the criminal justice system, the nature of the criminal justice system itself, or both. At least one prosecutor in each jurisdiction made some type of comment criticizing the police. Virtually all of these comments reflected a belief that the police often don't investigate domestic calls thoroughly. Similarly, several prosecutors made comments that judges sometimes don't take domestic violence seriously or may blame the victims. When asked if they believed that they, as part of the criminal justice system, were in a position to stop the abuse, only one prosecutor out of twenty-one answered with a strong "yes." Others gave answers such as: "No, the criminal justice system is merely a reaction to the problem," "No, it's like holding back the ocean with a broom," and "I like to think

that I am, but I don't think that is very realistic. Am I going to change people? No." Just about half of the prosecutors also reported believing that the criminal justice system is not very efficient. One prosecutor from the Lanville city attorney's office stated that the criminal justice system "runs about like a 3-legged dog" and is a "mass production system" and another said "Nothing the criminal justice system does is efficient." Further, only five prosecutors believed the criminal justice system to be "user-friendly" to victims. Comments included the following: "The criminal justice system is not user-friendly to anybody," "The criminal justice system is inherently UN-user-friendly because it is designed to process and deal with criminals, not victims," and "We do what we can to make it user-friendly. But the process can be not nice to go through."

Some of the prosecutors did, at some point in the interview, acknowledge structural factors that make it difficult for battered women to leave their relationships and/or cooperate with the criminal justice system. Just less than half of the prosecutors mentioned emotional ties to the batterer, economic pressures, the existence of children, fear of the batterer, and distrust of the criminal justice system as reasons they believed women returned to their batterers and/or did not want to participate in the prosecution of their batterers. However, despite the awareness of the type of social constraints that battered women face and/or a belief that the criminal justice system is neither user-friendly to victims, nor efficient, many prosecutors still reflected an expectation that women should leave and cooperate in the prosecution of their batterers. For example, one prosecutor from Easton County stated that he has served bench warrants for women who say they will show in court

but then don't. He said when victims fail to show, it "pisses him off" since he puts a lot of time and effort into these cases. This parallels Wittner's (1998) findings, in which she argues that court workers commonly condemn battered women's behavior without questioning their possible motives and hold women guilty for the failures of the criminal justice system.

There were a few exceptions to this. Several prosecutors directly mentioned the correlation between women's experiences with the system and their likelihood of using it again in the future. For example, a prosecutor from the Lanville district attorney's office said, "If the process isn't good the first time, they (the victims) won't use the system." Another prosecutor from Rockford County stated that he doesn't believe in arresting women who don't show up to court as this destroys their trust and belief in the criminal justice system. And a prosecutor from the Lanville city attorney's office, when asked about common methods she uses to make domestic violence victims feel supported, responded: "Treat them with sympathy and understanding. Don't blame them for recanting." This appeared to be a rare sentiment, however. By far, the common sentiment among the prosecutors towards recanting or uncooperative victims was frustration, anger, and pity.

Thus, the overwhelming majority of the prosecutors support criminalization of domestic violence and reinforce the idea that battered women can and should leave their abusive relationships and cooperate in the prosecution of their batterers. While these prosecutors appear to give lip service to the recognition of factors that may inhibit a woman's ability to follow this "dominant cultural script" (to borrow from Baker, 1997), because they assume women should still cooperate with the criminal

justice system *despite* these factors, the majority of them do not seem to recognize how powerful such factors may be. Mahoney (1994) argues that because much of the criminal justice system's response to domestic violence is centered on the question of why a woman doesn't leave the abusive relationship, the system is unable to take into account the reality of many battered women's situations and the complexity of their relationships. As both she and Schneider (1993) argue, the criminal justice system's assumption that a battered woman has two choices—staying and being victimized, or leaving and being “saved”—ignores the social, psychological, and economic factors that make leaving difficult. Further, and perhaps more importantly, this view also disregards the fact that many women are actually less safe from their abusers after leaving the relationship. Not one of the twenty-one prosecutors in my study brought up the fact that women are often at greater risk of attack after leaving their relationship. Only one—a prosecutor from the Lanville district attorney's office—pointed out that battered women are often concerned with survival. She stated: “You have to put yourselves in their shoes as a prosecutor. You have to think about safety, but for victims, they think of survival. This is a big difference. What I think is the safe thing, the victim thinks, ‘Are you kidding? I can't survive with this.’” This woman's words illustrate that prosecutors often interpret battered women's situations quite differently than battered women themselves, do and that overly focusing on “exit” (Mahoney 1996) obscures the complexity of many battered women's situations.

While not asked directly about ways in which women may take actions to protect themselves or get their needs met outside of exiting the relationship and/or

cooperating with the criminal justice system, none of the prosecutors brought up this possibility. A failure to leave the relationship and cooperate with the criminal justice system was almost exclusively viewed by the prosecutors as signs of women's victimization, passivity, or helplessness, not as possible signs of resistance or agency. Again, this highlights the effects of the victim/agent dichotomy. Under this perspective, as Mahoney (1994) argues, if you are a victim you cannot be an agent. Thus, many battered women's potential acts of resistance went ignored or unrecognized by the majority of prosecutors in this study.

### Summary

In Chapter Three, I examined some of the discursive effects of criminal justice policy for battered women. In this chapter, following Little (1999), I have examined the ways that these discourses and the constructions they offer serve as an interpretative framework through which members of the criminal justice system understand and make sense of battered women. Through the examination of interviews with twenty-one prosecutors who work on domestic violence in four separate jurisdictions, I have focused on one realm of the "lived effects," or the real-world implications of domestic violence discourses and further explored the relationship between subjectivity and discourse.

As Merry (1995b) has argued, the criminal justice system is a site where cultural meanings are both produced and replicated; because the criminal justice system is a part of the state, these meanings and representations become institutionalized. This process is complex, however. As I have shown in earlier chapters, discourses produced by the criminal justice system are also inextricably

connected to discourses produced in other areas, such as academia, victims' rights movements, and the mainstream media. Domestic violence legal policy thus borrows from mainstream discourses in its representation and constitution of battered women and in turn, it serves to perpetuate these discourses and representations. The interviews with the prosecutors that I have presented here demonstrate that prosecutors commonly draw from these mainstream discourses in their workings with and understandings of battered women. They use the discourses as resources to "assemble the biographical particulars" of the women's selves in order to work with and provide services to the women (Spencer, 2001). Thus, on some level, as agents of the state, they participate in the continuation and (re)production of mainstream discourses about battered women. For example, all of the twenty-one prosecutors in this study appear to operate under the perception that the criminalization of domestic violence is a necessary thing and that policies mandating the arrest and prosecution of batterers are for the good of battered women and society in general. There is an underlying belief that women must utilize assistance from the criminal justice system if they truly want to address the violence in their lives. In many ways this makes sense: dominant narratives surrounding domestic violence perpetuate the notion that the criminal justice system is the best way to address woman battering. Prosecutors themselves are situated in these narratives as agents of the criminal justice system, and this makes it easy to understand their support of the criminalization of domestic violence.

However, these interviews also demonstrate that not all of the prosecutors accept mainstream representations of battered women, even those on which



mandatory arrest and prosecution policies are arguably premised. Not all criminal justice system professionals engage in the construction of "institutional selves" in the same manner (Spencer, 2001). While, for the most part, prosecutors do reflect portrayals of battered women as either "victims" or "agents," and often fail to understand both the context of the relationship in which battering occurs and why many battered women will not or cannot leave abusive relationships, there were exceptions to this. Some prosecutors were resistant to the idea that the criminal justice system needs to take all decision-making power away from battered women. Further, some prosecutors refused to make generalizations about the women they worked with, or characterized battered women in counter-stereotypical ways, such as by saying they are truthful and/or strong. This resistance, while never direct or even conscious, does abrupt mainstream ways of understanding battered women and serves to challenge the institutionalized discourses of the criminal justice system and the legal policy they produce. While very few prosecutors directly questioned mandatory arrest and no-drop prosecution policies on the basis of their impact on battered women, by asserting that battered women need to be empowered or by claiming they need to have their voices heard, several prosecutors provided the opportunity for alternative understandings and representations of battered women.

In 1982, Schechter wrote of the dilemma the battered women's movement faced when considering whether or not to work with the criminal justice system in an attempt to address domestic violence. While one extreme side of the movement believed legal reforms to be the solution to battered women's problems, the other extreme side believed that the police and courts reflected "a hopelessly racist, sexist,

and class-dominated society” and that attempts to change them or work within would be eventually co-opted (pp. 175-176). Today, with the increased criminalization of domestic violence and the implementation of legal policies that many believe to be disempowering to women, this dilemma still resonates. It does appear that in many ways the state has co-opted the work of the battered women’s movement—as I have demonstrated, discourses criminalizing, psychologizing, and pathologizing domestic violence have, for the most part, usurped and replaced discourses representing domestic violence as an issue of gender inequality. The “battered woman” has been represented and constituted in problematic and uniform ways with often negative ramifications. Yet, these discourses and their effects do not stand unchallenged—even workers in the criminal justice system may reflect alternative ways of thinking, as my research shows.

I am not claiming that simply because several prosecutors deviated from mainstream constructions of battered women in their understandings of domestic violence, these discourses may be replaced and their negative effects erased; to do so would be naive. However, my intent is to argue the importance of recognizing that the power of the criminal justice system and its workers is not uniform. Agents of the state do not always merely reflect and reproduce mainstream discourses and their resulting interpretations and representations. Mainstream discourses about domestic violence do appear to be very influential to prosecutors’ understandings of battered women, and this makes discussion about the dangers of feminists in engaging with the state to address gendered social problems all the more relevant. Yet, this research illustrates that counterdiscourses are co-present with mainstream discourses in the

domestic violence criminal justice arena and thus, the potential for resistance and change exists.

## NOTES

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<sup>1</sup> While both the city attorney's office and district attorney's office in Lanville prosecutes misdemeanor domestic violence cases, the district attorney's office usually handles the more serious cases, such as those involving broken bones, stitches, hospitalization, and/or use of a weapon.

<sup>2</sup> Although, as previously noted, in most jurisdictions with no-drop prosecution policies, there exists an understanding that some cases simply can't be taken to trial without the victim's cooperation as there is no other evidence besides her testimony.

## CHAPTER FIVE

### Victim, Agent, or Both?: The Discursive Construction of Victimization

In Chapter One, I discussed what it means to view social identity as discursively constructed. I begin this chapter by reviewing several important points about such a perspective. Ransom (1993) describes discourse as: "...structured ways of knowing which are both produced in, and the shapers of, culture." Further, "discourses are not merely linguistic phenomena, but are always shot through with power and are institutionalised as practices" (p. 123). While discourses surrounding a particular subject are always multiple, some discourses carry more cultural power and weight than others—these discourses are often referred to as "dominant" or "hegemonic" discourses. However, as Fraser (1997) reminds us, "hegemony" does not describe a process in which dominant groups maintain *exclusive* control of cultural meaning. She states: "on the contrary, 'hegemony' designates a process wherein cultural authority is negotiated and contested. It presupposes that societies contain a plurality of discourses and discursive sites, a plurality of positions and perspectives from which to speak" (p. 154). Thus, given that discourses are multiple, shifting, and at times contradictory, so are the social identities they construct. Further, while there may be numerous discourses that construct a particular identity, some of these discourses are hegemonic in that they carry more cultural authority.

Gubrium and Holstein (2001), borrowing from Foucault, argue that cultural and institutional discourses set the "conditions of possibility" for what constitutes a particular identity. For them, "institutional identities" are "locally salient images, models, or templates for self-construction; they serve as resources for structuring

selves" (p. 11). I have already explored some of the hegemonic cultural discourses that construct the identities of the "victim" and the "battered woman." As I have demonstrated, these identities have been constructed in different ways by a variety of different social institutions. Further, "victim" and "battered woman" are not just institutional identities, but according to Gubrium and Holstein (2001), are troubled ones. The authors maintain that a person's making connections between their personal self and a troubled identity involves "a great deal of interpretive activity," as that person's lived experience might in some ways be contradictory to ways the institutional identity has been constructed (p. 11). Donileen Loseke (2001) uses the term "identity work" to describe this process. In this chapter and the next, I explore the "identity work" of the women I interviewed. In other words, I examine the ways in which the women used discourses surrounding the identities of "victim" and "battered woman" to construct their selves. During my interviews, I asked the women to describe what the terms "victim" and "battered woman" meant to them; I then asked each woman whether she saw herself in these terms. The majority of the women reported seeing themselves--at some point--as a victim, a battered woman, or both. However, more of the women saw themselves as "victims" than as "battered women," indicating that discourses surrounding these two identities are not conflated. Thus, I discuss each of these identities and the discourses that construct them separately. In this chapter I examine the complex relationship that women in abusive relationships have with "victim" discourses, focusing on the conditions under which a woman claims or rejects the identity of "victim"; in the next chapter I do the same for

the identity of "battered woman." Consequently, Chapters 5 and 6 are each two parts of a larger analysis.

The women I interviewed drew from a variety of discourses in their understandings of what it means to be a "victim" and a "battered woman" in U.S. society. Through their narratives, they demonstrated that they are very much aware of the ways in which victims and battered women have been culturally constructed. The conceptions of "victim" and "battered woman" held by some of the women mirrored hegemonic constructions of these identities; other women resisted or challenged these dominant representations. Not surprisingly, the women's explanations for claiming or rejecting the identities were strongly tied both to the meanings they associated with each one and to their own lived experiences. Some of the women I interviewed recognized themselves and their experiences in dominant representations of "victim" and others did not; some women identified with particular aspects of such representations but rejected other aspects. Further, some women simultaneously drew from multiple discourses. Thus, the women's identifications with these discourses were often inconsistent; their identity claims often shifted and changed throughout my interviews with them. However, as I will argue, contradictions in the women's narratives reveal the potential shortcomings of available discourses, as opposed to indicating something negative about the women themselves.

I will demonstrate that discourses surrounding the "victim" and the "battered woman" are both enabling and constraining. While they serve as available resources for women to draw from in their self-constructions and self-representations, they are,



in many ways, limited. Hence, identity work was often challenging for the women. Just as feminist theorists and researchers struggle with the victim/agent dichotomy (Mahoney, 1994), so did the women I interviewed. Their narratives reveal the difficulties they faced in depicting themselves as injured or wronged while simultaneously acknowledging they were not passive or helpless. These difficulties, however, did not keep the women from attempting to craft their own identities. The women did not allow their identities to simply be dictated and determined by existing discourses; instead, they constructed their selves in particular and specific ways. Thus, a central finding that I will discuss is that agency is involved in the creation of identity.<sup>1</sup>

### **Victimization—Three Hegemonic Discourses**

In Chapter Three, I discussed some of the culturally dominant discourses that have emerged in the past several decades surrounding the identity of "victim." To briefly review, one construction positions women to blame for the violence they experience. A second construction, created by a number of different sources such as the victim's rights movement and various women's groups, focuses on the harm produced by violence against women. This latter construction has produced a version of "victim" that removes all blame or culpability from the abused woman (Lamb, 1999). A third construction, which some have argued is a byproduct of the second, portrays victims as weak, powerless, and helpless. My research shows that battered women's relationships to these discourses are often complicated and messy; the women both draw from the discourses and challenge them in their struggles to make meaning of themselves and their experiences.

### Discourse One: Victims as Culpable

My interviews indicate that for many of the women, discourses of blame surrounding the term "victim" hold much weight and are often central to their decisions about claiming the identity of "victim" for themselves. Women either recognized that others in society blame the victim or they themselves reflected this belief. For example, when asked what the word "victim" means to her, Lauren, a 21 year-old white woman (see Appendix D for list of interviewees) who broke up with her boyfriend after the first time he hit her said, "Well, it's definitely a negative feeling, nobody wants to be the victim, nobody wants to because that implies some sort of responsibility on your part. You LET yourself be the victim, how did you LET that happen?" Jean, a 43 year-old white woman whose husband was physically and emotionally abusive (he had thrown her and their children out of the house), expressed a similar belief. Consider the following exchange:

*Jean:* So if you are a victim of domestic violence, there's still a stigma that goes with it.

*Amy:* Which is? What do you think is the stigma?

*Jean:* I don't know—that you're a troublemaker, you know. That, uh, maybe....nobody's said this recently, but that you brought it on yourself. You know, that you're not quite what society wants you to be...and whatever. But I've really noticed it in [her current] job search and it REALLY bothers me. They don't know who I am. They don't know who my friends are that are over at the Safehouse right now.

Women like Lauren and Jean are very aware of the discourse of blame and the power it has in contributing to people's beliefs that victims are somehow responsible for their experiences. However, both women still claimed the identity of "victim" for themselves. For example, I asked Lauren if she saw herself as a victim and she replied, "Yeah, I did, and I didn't like the feeling. I mean, it's not a good thing to feel

like a victim, it's not a good thing to be seen as a victim." While Lauren believed she was a victim of her ex-boyfriend's violence, labeling herself a "victim" was difficult, given her recognition that it is an often stigmatized identity.

Not surprisingly, some of the women who associated the word "victim" with blame and responsibility were less likely to claim the identity of victim, as they did not see themselves to blame for the violence in their relationships. As Karmen (1990) states, victim blaming entails finding "facilitation, precipitation, and provocation to be valid descriptions of what some people do 'wrong' that gets them into trouble" (p. 120). Gina, a 40 year-old white woman, acknowledged this when she stated, "I hate to be called a victim. I feel like then it's my fault. Then it's like I'm this weak person that couldn't do things right and get out, you know?" Gina does not want to be seen as a victim because she does not want people to see her at fault for her husband's violence or weak because she has not left the relationship.

#### Discourse Two: Victimization as Harm One Cannot Control

In contrast to discourses blaming the victim, Holstein and Miller (1997) maintain that to label someone a "victim" means that we believe that person is the object of "harmful, unfair treatment" (p. 27). Further, under this discourse, establishing someone as a victim frees them from culpability: "Calling someone a victim encourages others to see how the labeled person has been harmed by forces beyond his or her control, simultaneously establishing the "fact" of injury and locating responsibility for the damage outside the 'victim'" (p. 29). Consider the following statements from two interviewees about what a "victim" is: "someone who has been taken advantage of" and "somebody that's had something done to them, that

was a wrongdoing, I guess, not deserved." Between one-half and three-quarters of the women I interviewed either claimed, or at least in some way related to, the identity of victim; they most often did so to highlight the harm or wrong that they had experienced. While some women described feeling victimized by the criminal justice system (which I will discuss in Chapter Seven), most of the women focused on being victimized by their abusive partner. For example, when Heather, a 38 year-old white woman who described the abuse she experienced at the hands of her then boyfriend as primarily verbal and emotional, was asked how she felt about the term "victim" she replied: "Well, a victim is someone who got abused and I'm definitely a victim with this situation." Tammy, a 22 year-old Native American woman whose boyfriend was verbally, emotionally, and physically abusive, said:

Yeah, I see myself as a victim. I've never gone to any...like I've never called the victim advocacy program or anything, but I would see myself as a victim. Because, geez, my clothes have been ripped up, my glasses have been broken, my door's been kicked in, you know.

Tammy—despite focusing exclusively on harm to her belongings and property as opposed to her own bodily harm—used a victim identity to make clear that she has been wronged in some way.

Some of the women also clearly used the identity of victim to demonstrate that the wrong they experienced was caused by someone or something else, outside of their control. Paula, a 37 year-old white woman who was arrested after her alcoholic husband assaulted her, stated that she felt like a victim and defined victim as "somebody that reaped the consequences of other people's actions. Like, at the mercy of whoever, or everybody else, or whatever." Similarly, Liz, a 36 year-old white woman, made clear who caused her victimization when she said, "I'm a victim. I'm a

victim of John. What he is doing is not okay.” For these women, identifying as a victim helps them to understand--and make clear to others--that their experiences were harmful, damaging, and outside of their control. Unlike victim blaming discourse, under this understanding of victims, labeling someone a “victim” is both a way to deflect responsibility and to assign “victimizer status to others” (Holstein and Miller, 1997, pp. 30-31). For women like Paula and Liz, the use of this discourse helps them to make a clear demarcation between who is the “victim” and who is the “offender.”

### Discourse Three: Victims as Weak and Helpless

Clearly, the discursive construction of a blameless victim is an improvement on a discourse that positions abused women as responsible for the violence they experience. However, an unfortunate result of this discursive strategy is that the distinction between a woman not able to control the violence she experiences in her life and a woman who has no control of *any* aspect of her life has, at times, become blurred. Holstein and Miller (1997) state:

Exoneration from responsibility accompanies victimization. The essence of being a ‘victim’ resides in a person’s perceived lack of control over the harm that he or she has experienced. Thus, to ‘victimize’ someone instructs others to understand the person as a rather *passive*, indeed *helpless*, recipient of injury or injustice. While this can be situationally useful, it may also convey a general and undesired understanding of persons. In a sense, ‘victimizing’ a person “dis-ables” that person to the extent that victim status appropriates one’s personal identity as a competent efficacious actor.” (p. 43)

Indeed, as we saw in Chapter Three, the discursive removal of blame from battered women has also stripped them of the ability to act in their own best interests. As the victim/agent dichotomy suggests, a “true” victim is not an agent. Thus, a third



culturally dominant way of understanding victims involves portraying them as weak and helpless—as non-agents.

The idea that a victim is someone who is weak, powerless, or passive was held by about a third of the women I interviewed. This led to a rejection of the identity of victim by some of the women I interviewed because they did not see themselves as weak or helpless. For example, Gloria, a 32 year-old African American and Hispanic woman, said the following:

The term "victim" to me means that you're not able to stand up for yourself and kind of advocate for yourself so that you can make a positive change on whatever's going on. Like to me, a victim's sort of, "Oh, God, he's going to kill me, and I don't know what to do," and they're kind of, like, stuck in the fear mode. And that's not me. I'm not a victim. I'm afraid—don't get me wrong—I'm afraid, but I'm not afraid to stand up and do what I think I can do to alleviate the problem.

Gloria's long-term relationship with her boyfriend (to whom she was engaged at one point) turned violent after he developed a drinking problem. She broke up with him after the first time he became verbally abusive. He later returned to her house, broke down the door, pushed her, and threatened to kill both of them. She immediately called the police and continued to call the police during several repeat incidents.

Gloria sees herself as standing up to her ex-boyfriend and letting him know she will not tolerate his actions. Thus, in contrast to seeing herself as a powerless victim, she stated: "I see myself as a person who experienced something and they learned off of it, and they're trying to go on and fight and do the best thing possible to kind of get it out of their hair." This clearly counters the image Gloria has of a victim and leads her to reject the identity.

However, some women who reported believing that the term "victim" connotes helpless and powerlessness claimed the identity because their experiences



and/or situation have led to them to feel helpless and powerless. Take the words of Mary, a 40 year-old white woman who, at the time of the interview, had been living on the streets for nine months with her very abusive boyfriend. When asked what the word "victim" meant to her, she paused before replying, "Powerless. You feel totally paralyzed and so scared. And to me, alone. Totally alone." Mary stated that she did feel like a victim and made reference to a story she had recounted earlier in the interview where one night in mid-winter her boyfriend got drunk and threw everything she possessed into a campfire, including both pairs of her shoes and her winter coat. He later joked, "Well, we needed some fuel for the fire. It was going out." She described the incident as "the lowest thing you could do to somebody." However, Mary reported lacking social support and felt like her boyfriend was all she had. Her mother did not want contact with her and would not let Mary speak to her own children when she called. Further, she did not like the type of support offered by the criminal justice system—previously, someone else had contacted the police when her boyfriend severely beat her on the street and she was upset when the judge imposed a no-contact order on the couple. Thus, she did not believe that calling the police for help was an option. At the time of the interview Mary was staying at a shelter for battered women while her boyfriend was in jail after being arrested on outstanding warrants. The campfire incident was central to Mary's feeling powerless and alone. Her boyfriend, the only person she felt connected to in the world, did something unfathomably hurtful to her. Her situation led her to claim a victim identity. She described how it felt to be a victim: "I don't feel like a self. I don't feel like a person. I just feel like a nobody."

The words of Gloria and Mary are illustrative of the way in which battered women sometimes invoke discourse that constructs the "victim" as helpless and weak. However, their narratives also demonstrate that the women I interviewed used discourses in different ways, based on their own lived experiences. Holstein and Miller (1997) argue that victims are "interactionally constituted," in that "victim" is "a categorization device—an interpretative framework that provides a set of instructions for understanding social relations" (p. 27). Gloria and Mary's differential self-positioning to the identity of victim illustrates this. Both women experienced violence at the hands of their partners, and thus both women could potentially be viewed as victims. However, to label both Gloria and Mary as victims based solely on the details of their circumstances offers a static view of "victim" and assumes victim status is inherent to particular persons in particular situations. In reality, both Gloria and Mary viewed themselves and their situations differently, and thus their beliefs about whether or not "victim" is an appropriate status for themselves also differ—this reflects the interactional processes at work. Gloria firmly rejected the identity as a means of highlighting the actions she has taken to "stand up" to her abusive ex-boyfriend and end the violence and turmoil he brings to her life. She made clear that her rejection of a victim status does not mean she is not afraid; however, she did wish to differentiate herself from those women she sees as so "stuck in the fear mode" that they cannot do what they need to "alleviate the problem." Mary, on the other hand, saw her situation mirrored in the identity of helpless victim. She viewed her inability to get out of her abusive situation with her boyfriend as rendering her powerless and alone. In fact, when I asked her what she thought would

have to happen for her not to feel like a victim anymore, she replied, "Probably to finally break up with him." Both Gloria and Mary discursively interpreted "victim" in similar ways; however, they used this interpretive framework very differently to make sense of their experiences and, one could argue, to advise others on how to view them. As we will see in the next section, this process becomes very complex when the discourses women simultaneously draw from to understand the identity of "victim" are multiple and contradictory.

### **"Victim" Struggles**

In the preceding sections I discussed three of the most common ways that the identity of "victim" is culturally constructed: as someone who is culpable for the abuse they experience; as someone who is harmed by something they cannot control; and as someone who is weak and helpless.<sup>2</sup> Although the second construction was developed primarily to counter the first, all three of these discourses nevertheless help to shape the dominant view of victims in U.S. society. For example, although the idea that female victims of violence are not to blame for their experiences has gained prominence in the past several decades, narratives of blame are still very common surrounding women who are victimized (Belknap, 2001). Further, as I have previously demonstrated, the idea that female victims lack agency is also very common in the legal realm, as Mahoney (1994) and Schneider (2000) have shown in their discussions of the "victim/agent dichotomy." Because these three discourses co-exist in current understandings of women's victimization and because they are at times contradictory, the total picture they create is complex; we lack a clear story about who or what a "victim" actually is. Not surprisingly, then, many of the women

I interviewed were not completely clear about what they thought a "victim" was; many of them presented complicated understandings of a victim, drawing from two or more discourses simultaneously.

For example, Ellen, a 56 year-old white woman whose ex-husband was primarily verbally and emotionally abusive while they were married, understood that a victim identity is associated with blame *and* powerlessness. She stated:

And when I think about the word victim, I think about oh, poor me, you know. People blame the victim. They make you feel like all you want to do is whine. And I don't want to whine. I hate, it takes away any permission to like want to take care of yourself. You know. Part of being a victim makes you feel like you're powerless. And I'm not powerless.

However, despite Ellen's recognition that "victim" has been constructed in negative ways, she still claimed the identity, stating, "I am a victim of domestic violence and a victim of emotional violence." Ellen's narrative simultaneously reflects all three of the common cultural discourses surrounding victimization.

As we saw in the previous sections, battered women's identity claims are inextricably connected to their understanding and interpretations of particular identities. Therefore, women who perceived the status "victim" as multidimensional in its meaning sometimes had more difficulty claiming or rejecting this identity for themselves than did women who had a more simplistic understanding of "victim." Consider the following conversation I had with Barbara, a thirty-six year old white woman who experienced verbal and physical abuse from her now ex-husband at the end of their marriage:

*Amy:* And how about "victim"? What does that term mean to you?

*Barbara:* Well, that term is actually really frustrating because I feel like it's come to mean something very bad.

*Amy:* How so?

*Barbara:* Because people who are victims, you know, are survivors. It's just become really politically wrong to be called a victim, and so there's no word that can express when something happens to me. This happened to me and I didn't do anything to deserve it and I couldn't help it, and so...but I don't want to say I'm a victim because that congers up well, do I bring this on myself or do I play the role "victim"? It's just such a negative word now.

*Amy:* It sounds like you think blame is associated with it?

*Barbara:* Very much so, very much so. But yeah, so that can even make me defensive, being called a victim. Because it makes me feel like people are thinking well, yeah, I just do this for a living or something. And I don't. This really did happen and I didn't choose to make it happen.

*Amy:* Do you relate to the term at all?

*Barbara:* See, if it didn't have a negative connotation, yes. Definitely so. Definitely.

*Amy:* And what part do you relate to? If you could separate the negative, then what part of the word do you relate to?

*Barbara:* The part that says that something happened to me that I didn't provoke and I couldn't do anything about. Something that was awful.

Barbara astutely recognized that a victim identity is not an innocent one, as it is often associated with blame and responsibility. However, she also expressed a recognition that being a victim means something "awful" happened to her that she had no control over, and it is this construction of "victim" that she relates to. The competing and contradictory discourses that shape Barbara's understanding of what it means to be a victim make it difficult for her to declare herself as one. As she made clear, she believes there is "no word" that can communicate her experiences—for her, "victim" is just too tainted.

Krista, a 28 year-old African American woman, had a "4 or 5 year, on and off" relationship with her boyfriend who was verbally, emotionally, and physically violent. Her narrative also reflects multiple dominant discourses surrounding victimization and suggests she struggles with the application of the identity of "victim" to herself. When I first asked her if she saw herself as a victim she said "I don't really think I am a victim" but immediately launched into a discussion of how



she was a victim of the criminal justice system.<sup>3</sup> I later asked her if she saw herself as a victim in the relationship. She said: "Yeah, but, but I could easily have made...I've got a lot of hatred in my heart for that man...if he ever really tried to...I think I could fuck him up, for real." Here, Krista countered her original refusal of victim status. Further, her "yeah, but" response makes clear that she thinks she could fight back if she needed to *despite* seeing herself as a victim in the relationship. This indicates that for Krista, victimization is equated with passivity and an inability (or unwillingness) to fight back. She saw herself as a victim but also wished to highlight her agency.

I tried to further flush out the contradiction in Krista's narrative by pointing out that earlier she said did not really see herself as a victim, and asking if there was a part of the word she did not relate to. She responded in the affirmative and explained by stating, "Because I really didn't have to BE with him, you know, so that part. It's not like I had to REALLY." She said she did not have to stay in a relationship with her ex-boyfriend at first, but later, when she had several children with him and became financially dependent on him, she did. She said:

...I didn't see all these signs that he was fucking me up before. You know what I'm saying, so that's my stupid fault. Cause I never knew, so oh well. You get what you deserve, I guess, in that aspect, I don't know.

Krista saw herself as having some type of control in the situation; she said that originally she did not have to stay with her boyfriend and she also took responsibility for missing signs that he was abusive. The control she perceived herself to have had made it difficult for her to see herself as a victim, indicating that for Krista, part of a victim identity means having no control over the abuse one experiences. While Krista did not directly state that her understanding of victimization involves both



passivity and a lack of control, her narrative indicates that both of these discourses are influential to her construction of a victim identity and contribute to her difficulty in definitively claiming or rejecting such an identity for herself.

Some of the other women I interviewed also reflected seemingly contradictory understandings and uses of the word "victim." Several women used the term throughout the interview to refer to themselves or their experiences, yet when asked directly if they saw themselves as a victim they said "no." Take, for example, Robin, a 29 year-old white woman whose husband, at the time of the interview, was in jail for assaulting her. She stated:

I don't necessarily like the term domestic violence victim because right there you have the word victim and most therapists will tell you point blank, that is not good psychology to be using those same terms to somebody who has been through [domestic violence]....and it's just not healthy to be using that same word in those connotations. It puts the blame - well, victim usually carries a very negative...it denotes a state of complete powerlessness.

Robin then stated that she does not feel powerless so she doesn't see herself as a victim. However, before Robin made these comments, on eight separate occasions she, herself, used the word "victim" to refer to women who have experienced domestic violence. For example, when discussing her opinion of the criminal justice system she said, "And the reason the courts are backed up is because they're more interested in protecting the rights of the perpetrator than the victim's rights."

Interestingly, after Robin told me she did not like the term "victim," she "caught" herself using it again. While in the midst of telling me that police officers need better training in dealing with victim's potential responses to violence, she stated, "...police officers really need to be more educated about--and I know I don't like this word, but it does define-- 'victims'." Robin acknowledged the contradiction in her stated

dislike of the term and later use of it, but she made clear that "victim," while a stigmatized term in many respects, does help to "define" or communicate a particular meaning.

Another woman who rejected the identity of "victim" for herself when directly asked later declared that she was a victim. Recall the case of Gloria, the woman who firmly denied seeing herself as a victim because she was not "stuck in fear mode" and was taking active steps to "stand up" to her ex-boyfriend who was harassing her. During this part of our conversation, she stated, "I don't see myself as a victim" and "I'm not a victim." However, at an earlier point in the interview she had claimed a victim identity. Gloria was in the midst of telling me how upset she was that her ex-boyfriend broke his probation and fled the state only to have the probation officer go find him and bring him back to the city in which Gloria was living. This meant that as soon as her ex-boyfriend bonded out, he would be back at her house and bothering her (and sure enough, this is exactly what happened). She recounted a conversation she had with the victim's advocate about this:

She (victim's advocate) just told me, she said, "Well, Gloria, by law, you know, we have to bring him back up here." And I'm, like, "But...that doesn't make any sense, because I'm the victim, and I'm down here, and he's up there where he can't harm me. If you bring him back down here...(trails off)."

So, even though at one point in the interview Gloria resolutely declared she is not a victim, here, she asserts her victim status. Again, this inconsistency in Gloria's narrative is further evidence of the multiple ways that "victim" is discursively constructed, and how it has different meanings in various social contexts. Moreover, the inconsistency demonstrates the various ways in which the women I interviewed drew from the different constructions of "victim" to make sense of their experiences

and communicate these meanings to me. When Gloria asserts she is a victim, she does so to make clear to the victim advocate that she was the one harmed and that she is the one who is still afraid. Further, she is also making a claim to rights from the criminal justice system.<sup>4</sup> As Holstein and Miller (1997) argue, the process of labeling a person a "victim" "also serves as a rationale for sanctioning perpetrators in order to 'set things right'" (p. 34). However, Gloria's rejection of a victim identity is done to distance herself from depictions of victims as weak, helpless, and unable to act for themselves. Clearly, for Gloria, "victim" has multiple meanings, as it does for many of the women with whom I spoke.

There are many ways of understanding what it means to be a "victim" in U.S. society. Discourses that blame the victim, that construct "victims" as experiencing a harm that cannot be controlled, and that position the victim as weak and helpless exist concurrently as interpretive frameworks that people use to make sense of a "victim" identity. An examination of the narratives of the women I interviewed reveals the cultural power of all three of these discourses. The women both drew from and rejected these discourses while constructing their identities and attempting to make sense of their experiences. Further, at times they simultaneously drew from competing discourses. This demonstrates the complex role that cultural discourses have in the process of identity construction.

Also illuminated are the conditions under which battered women chose one discourse over another. At one time or another, all of the women's interpretations of "victim" mirrored one or more of the hegemonic discourses. Each woman's decision to claim or reject a victim identity was based on her individual understanding of

“victim” and how well she felt it explained her own experiences. However, because many of the women held multiple understandings of “victim,” their identity claims were not always consistent—some claimed to be a victim in one circumstance but rejected this status in another. Women were most likely to claim a “victim” identity when they wanted to express they had been harmed or wronged in some way, and/or to claim rights to justice. They were much less likely to claim a “victim” identity if they believed this meant they were to blame for the violence they experienced or that they were weak or helpless. This process is explored even further in the following sections.

#### “A Pancake Always Has Two Sides”: Victim’s Perceived Responsibility

As I have argued, one of the ways that “victim” has been discursively constructed in U.S. culture in the context of violence against women is through the blaming of women for the abuse they experience. While several of the women I interviewed told me that they used to blame themselves for their partners’ violence, at the time of the interview, none of them appeared to directly hold themselves at fault. However, nearly half of the women reported believing that they played some role or possessed some level of responsibility in their abusive relationships.<sup>5</sup> The women claimed varying degrees of responsibility and for a variety of reasons, such as not standing up to their abusers or leaving the relationship, playing a victim “role” and/or having a victim “frame of mind,” and initiating or participating in verbal and physical violence. Often times, as I will show, a woman’s belief that she had some level of responsibility was directly connected to her claiming or rejecting of a victim identity.

Several of the women spoke of "letting" their partners abuse them. For many women, this meant either not "standing up" to their partner by calling the police or it meant remaining in the relationship and continuing to see their partner despite the violence. For example, Liz, a 41 year-old white woman, had a thirteen year on and off relationship with John. John and Liz were both longtime speed addicts and John had been both physically and verbally abusive to her—he had an extensive criminal record including several charges of sexual assault and child molestation. Liz said she has frequently reconciled with John both because she loves him and because he is her drug connection. She said she has "let him in and out" of her life numerous times. Other statements she made were: "I let him get away with it so much" and "I play the game." At one point in the interview she told me she had vowed to her children that she would stop doing drugs and she also wanted to permanently end things with John. She said, "I'm not gonna let [him] treat me like a victim no more." Liz used the phrase "let him" three separate times, indicating that she perceived she had some control or level of responsibility in her situation.

Other women spoke of a victim "role" or "frame of mind." For example, Kathy a 35 year-old white woman, was physically and sexually assaulted one evening by Nathan, a man she was casually dating. As a child, she had been sexually abused by her brother and physically abused by her mother; her ex-husband was also physically violent. She said that part of being a victim "is a belief that you have about yourself sometimes, where you somehow believe that you don't deserve something better, and so you end up in this victim role." She then made a distinction, however, between "random victimization" and more systemic victimization:



So I think, you know, a victim can be a variety of different things, where you have a victim who is just in a situation that all of a sudden she's assaulted or raped or . . . you know, by either a stranger or by a casual dating situation, where it's completely out of the blue. You have other victims who have kind of been inculcated into the system or this cycle, you know, of a relationship where they're constantly a victim. I think I was a victim as a child throughout my life, and so I think that throughout my life I've been trained as a victim; I think I'm a good victim. And I fit within this model or this perception that I don't deserve something better, and put myself into dangerous situations.

Kathy took some level of responsibility for the violence she has experienced by stating that she has a victim mentality that results in her putting herself into "dangerous situations" and ending up in a "victim" role.

Kathy said that a victim "can be a variety of different things." She differentiated between women who are in a cycle of victimization in their relationships and women who may experience random victimization. Kathy appeared to position the latter as more innocent. However, she seemed to struggle to categorize the act of violence she experienced from Nathan as random victimization that happened "out of the blue" or as something that is part of an overall "cycle." For example, after she said that some violence is "random victimization" she stated, "I think with Nathan, that's what it was. I had no idea. I didn't see any signs that he was going to be violent towards me." At a later point in the interview, she suggested that she had been in a sexual relationship with Nathan to boost her self-esteem. She had been going through a rough time in her life, as she had recently been laid off. She said that when she is under stress, she reverts to a "victim role" and this might have contributed to her failure to see signs that Nathan was abusive: "I think I went back into a situation where I ignored the red flags that Nathan had, and just went with what was going on—saw the good things in Nathan [and] not these red flags that would come up." Kathy appeared to have difficulty deciding whether or not she



believes she could (and should) have seen Nathan's violence coming. Despite her distinguishing between "cyclic" and "random" victimization (the latter involving less responsibility on the victim's part), she was unable to neatly insert her own victimization into one of these categories.

Carla, a 58 year-old African American and Native American woman, also made a distinction between random victimization and victimization that occurs in an on-going relationship. Her ex-boyfriend was emotionally and physically abusive and she believed he was responsible for setting fire to her apartment (although the police were never able to prove this). For Carla, the word "victim" always indicates innocence and thus, she did not believe it can apply to women in abusive relationships, whom she sees as playing some role. When I asked Carla if she saw herself as a victim, this was her reply:

Not really. I don't particularly like the term victim. Because I feel like it's putting too much (responsibility) on the other person. They just, you know, in this type of situation, it's a two-way street...A victim is like I'm walking down the street and a guy just attacks me. And rapes me, whatever. I have no choice.

I then asked Carla if she saw this as different from being in an abusive relationship.

She answered:

Somewhat...Because I do think we play a part in being battered women. There are things in our personality that probably trigger whatever it is in his personality. So I think battered women have something in them that's not helping, too, that attracts the battering man and triggers him. Okay? Do you know what I'm saying? Like a pancake. I don't care how thin the batter. It's got two sides.

Finally, other women saw their actions or behaviors as playing a role in their abusive relationships. Several women believed that their yelling, calling their partner names, and/or using violence themselves gave them some level of responsibility for their situations. For example, Gina, a 40 year-old white woman, was in a marriage to

Joe that she described as verbally abusive. She reported that Joe had hit her at one point twelve years ago. On a recent evening, Joe belittled her in front of their children. She confronted him about it and they got into a verbal argument. She ended up throwing some fruit at him and decided she wanted him to leave. She tried to pull him to the front door and they had a physical altercation where he grabbed her by the wrists and she scratched him in the face. Her husband called the police and she was arrested. At one point during the interview Gina told me: "You know, I felt like I let this happen. And to some extent, I did. Had I not, reacted like that...Joe can push my buttons, and I just really lost it." She continued by saying that she "wasn't taking care" of herself and was very stressed because they had just moved to a new state and she had lost her previous support system (which she defined as several support groups such as Alcoholics Anonymous and Al-Anon, her therapist, and her prescription for a low-level antidepressant). Thus, she described feeling that she was really "out of" herself. She believed this led to her reacting to Joe's verbal abuse the way she did, leading her to conclude that she had a role in the incident.

Discussing women's potential "role" or responsibility in their abusive relationships poses a host of possible problems. This theme may be perceived by some as dangerously close to--if not inseparable from--the discursive construction of female victims as culpable for their experiences. Some feminist analyses certainly might lead to such a conclusion (see Lamb, 2001, for further discussion).<sup>6</sup>

It would not be difficult to read these women's accounts as evidence that they have internalized dominant cultural beliefs that blame the victim and/or as proof that these women are stereotypical battered women who excuse their partner's behavior

because they cannot face the reality of their situations. However, this would be an overly simplistic explanation and, I believe, one that would fail to accurately present the "truths" of the women I interviewed. As Lisa Sanchez (1999) points out, "the voices of women who are considered victims have all too often been silenced and devalued, the contradictions in their narratives dismissed as 'justification,' 'rationalization,' or 'false consciousness'" (p. 53).

A closer analysis of these women's narratives and their beliefs that they had some type of role in their abusive relationships reveals two important findings that demonstrate this self-positioning is not merely a reflection of dominant discourses that blame the victim. The first finding is that all of the women I interviewed who claimed some level of responsibility in their abusive relationships distinguished between this perceived responsibility and actual culpability. For example, while Liz accepts some degree of responsibility for her abusive relationship by not firmly ending the relationship with John, she lays the blame for his violent behavior squarely at his feet. When I asked her what the word "victim" meant to her, she replied: "I'm a victim. I'm a victim of John. What he is doing is not okay." This highlights an important difference between *responsibility* and *blame*; while Liz believed her failure to end the relationship with John translates into her "letting" him treat her like a victim, she did not indicate in any way that she deserves his abuse. Kathy, the woman discussed above who stated she is a "good victim," also seemed to make a distinction between what she sees as responsibility and blame. She pressed charges against her attacker, Nathan, and was hoping he would receive the maximum sentence. She talked about her failure to recognize the red flags in her causal

relationship with Nathan. I asked her if she blamed herself and at first she said yes. However, after discussing the stress in her life at the time of the attack, she stated, "...I don't know if I *blame* myself, but I think that that victim role has been...is inside of me. And I constantly fight against it in relationships that I develop. So I think that there's a lot in my history and in my background as to why I do what I do, and the choices about who I'm with."

Even Carla, who came the closest to blaming the victim by saying that she believes there is something in a battered woman's personality that "triggers" her abusive partner, did not appear to believe the abuse she suffered at the hands of her now ex-boyfriend was her fault—in no way did she exonerate him for what he did to her. When Carla ended their relationship he continued to stalk her and she took several measures to attempt to ensure her safety, such as going to a shelter for battered women and filing for a restraining order. Throughout the interview she referred to him both as a "monster" and as a "terrorist." Later comments she made suggested that perhaps her perspective, instead of meaning to blame victims of domestic violence, is a way for her to make certain that she will not get involved with any more abusive men (her ex-boyfriend was one of a string of violent men she had been involved with). I asked her how her experiences have impacted how she views herself. She replied:

I realized that I needed to really....I really needed to find out...I needed the solution on how to, you know....it's not so much spotting the guys. It used to be like I could spot these guys. We'd talk about that [at the shelter]: 'Now how do I spot them?' You do this and you do that....I spotted that. And it didn't work because it's something in me that draws that [abusive men].

With obvious difficulty, Carla discussed how she had previously learned from shelter staff the potential signs of an abuser. However, she believed this did not work for her since she ended up in another violent relationship. This led her to the conclusion that it had to be something about her that makes her more attractive to abusive men.

Because of this belief, Carla said, "I think this relationship has made me even more determined to become a whole person," which for her meant staying out of relationships for some time, staying sober, and turning to "spiritual things" such as yoga.

Thus, for some of the women, acknowledging that they had some degree of responsibility also meant they had a way of controlling the violence in their lives. They reported believing they contributed to the abusive relationship by doing things such as: thinking like or being a "good victim"; not taking care of themselves; not standing up to their partners by calling the police; "letting" their partners abuse them by not ending the relationship; and failing to see "red flags" in order recognize who may be a potential abuser from the start. Again, the women were not arguing that their engaging in these behaviors somehow excused their partners' violence or made it less wrong. Instead, this thinking helped to provide a perception for the women that if they changed their behavior or mindset, they would be less likely to be harmed; it gave them a feeling of control and countered discourses positioning battered women as weak and helpless.

While I argue that the women's claims of responsibility are distinctly different from discourse that blames the victim, their line of thinking appears to reflect what Nancy Berns (1999) refers to as an "individual frame of responsibility" for solving

domestic violence. In her review of popular women's magazines, Berns found that domestic violence is most often portrayed as a private problem that is the victim's individual responsibility to end. Highly ignored by the magazines were perspectives that examined the institutional, social, and cultural contexts in which this violence occurs. Indeed, as I discussed in Chapter Three, many theorists have argued that current domestic violence discourses have effectively depoliticized woman battering (Ferraro, 1996, Lamb, 1999, Schneider, 2000). Despite the battered women's movement original insistence that domestic violence is a political issue, increasingly, pathological and psychological explanations of domestic violence have become common. This effectively obscures both the pervasiveness of the abuse of women in U.S. society, the context of unequal power relations in which it occurs, and the historical failure of U.S. social institutions to take it seriously.

For sure, it is highly unlikely that if all the women I interviewed simply changed their behavior and ways of thinking that they would be safe from violence and from becoming involved in future abusive relationships. In fact, several of the women discussed believing that they knew how to "keep themselves" out of abusive relationships, only to find their next partner also to be violent. For example, Kathy seemed somewhat perplexed that, after leaving her abusive marriage and believing she was safe from future violence, the man she was involved with sexually assaulted her. She stated:

You know, it's funny, because after leaving my first husband, I said I would never be a victim again. And I tried to live a life without becoming a victim, and yet I ended up in this situation as a victim again. And I think . . . I don't know how I ended up being a victim again in a situation.



She came to the conclusion that she still must possess a victim "mindset." Certainly, some (if not many) women who do change their behavior or mindset likely still experience violence. Further, structural factors may impede their attempts at exiting a violent relationship. A woman may call the police, only to have them not respond. A woman may want to leave the relationship but not be able to support herself and her children. A woman may leave her abusive relationship, only to be stalked or even killed. However, while a large number of the women I interviewed did reflect an "institutional frame of responsibility," they were not oblivious to the role that larger sociocultural factors play in the origin and perpetuation of domestic violence. Many of the women reflected an awareness of gender and raced-based hierarchies in U.S. society. Further, a large number of the women I interviewed view the criminal justice system as an inadequate means of addressing the violence in their lives (and few of them believed other options besides the criminal justice system existed).

Thus, I believe that the women's claims of responsibility in their abusive relationships did not simply mirror dominant discourse blaming women for the violence or holding women solely responsible for solving the problem of violence in their lives. According to Cornel West (1993), there are two predominant ways of explaining oppression: perspectives that focus solely on "structural constraints" that hinder individuals, and perspectives that highlight "behavioral impediments" of individuals (p. 11). He argues that each perspective, taken alone, is inadequate and incomplete, stating, "We must acknowledge that structures and behavior are inseparable, that institutions and values go hand in hand. How people act and live and are shaped—through in no way dictated or determined—by the larger

circumstances in which they find themselves" (p. 12). The fact that some of the women I interviewed claimed some level of responsibility in ending the violence in their lives does not mean they remove responsibility from larger social institutions. It is *because* of what they often saw as a failure of larger social institutions to help them that they believed they could only rely on themselves. Further, believing that they have some type of control is clearly important to women's senses of self—as I have demonstrated, many of the women did not think themselves to be weak or helpless. This process is central to some women's preference of a "survivor" identity instead of a "victim" one, which I will discuss in more-depth later in this chapter.

A second interesting finding that demonstrates that women's claiming of responsibility is not merely a reflection of dominant discourses that blame the victim is evidence that women themselves struggle with this position. They either demonstrate an awareness that their claims of responsibility are dangerously close to blaming the victim or their narratives contain contradictions about how much control they see "victims" (and themselves) to have. Karen is a 46 year-old white woman who was in a very abusive relationship with her husband of ten years; she was separated from him at the time of the interview. She reported that she called the police on her husband at least 40 times both during the course of her marriage and during their separation. I asked Karen how she related to the term "victim" and this is the conversation we had:

*Karen:* Now, some of it makes me...(sighs)...I don't know how to explain it. It makes me sound as if....OK, if you know the word "victim" and you know that you ARE the victim, what are you still doing in there? You know, cause once you KNOW that you're a victim...

*Amy:* You mean in the relationship?

*Karen:* In the relationship, you need to get out of it. OK, so if you're that alert and

grown up enough to know that you have become a victim....but the word victim as far as when you go to the cops or you go into something like that, (says in patronizing voice) "Well, it sounds like to me you were a victim of violence." Of, "You were a victim of...your father MUST have done something to you in order for you [to be in this situation]." I put a guard up. It's like, I have to see what *I've* done, not what I've done to cause that, but...

Karen struggled here to articulate what she sees as battered women's responsibility to get out of the relationship once they "know" they are a victim; she realized that she was treading into dangerous ground: "It makes me sound as if..." She trailed off here, but it is clear that she knew that by making the statements she did about women's responsibility, she was risking blaming the victim. She unmistakably did not want to do this, as evidenced by her statement, "It's like, I have to see what *I've* done, not what I've done to cause that, but..."

Karen's difficulty in describing what she means may be due to both the power and limitations of existing discourses about battered women and victimization. She recognized the danger in blaming victims (and, I believe, she herself does not think that women are at fault for the violence they experience) but she was constricted by the limited images and concepts available to her. Dominant discourses either position women as to blame for the violence they experience, or as completely innocent, passive, weak, and unable to control their lives. Neither of these constructions was suitable for Karen, yet she lacked the language to communicate any middle ground. There was no way for her to communicate that she was hurt and wronged while also demonstrating that she had agency in her relationship and her life.

Several women also seemed to contradict themselves at various points in their narratives when talking about the amount of control or responsibility they perceived victims to have. For example, consider the exchange I had with Daisy, a 47 year-old

African American woman who experienced a brutal sexual and physical assault from a man she used to date:

*Amy:* What about the term "victim?" What does that word mean to you and how do you relate to it?

*Daisy:* I felt I was a victim. It means something that happens to you that you can't control, you have no control. I felt like I was a victim, but I'm not going to be in that victim frame of mind so I'm not going to be a victim anymore.

*Amy:* What is the victim frame of mind?

*Daisy:* When you always put yourself in a situation where you can't....(trails off).

*Amy:* I know it's a difficult question.

*Daisy:* Well, you know, like if you're naïve and you go out with some of your friends who are more...streetwise than you, and they put you in a situation where you don't know what the hell you're going to do, you're a victim...cause you shouldn't have been there in the first place. You know what kind of people they are... There are things that you can do to not put yourself in that position.

*Amy:* And that's what you feel you're better at now? Taking actions to prevent being in a situation...

*Daisy:* Yes. Being aware of your surroundings at all times. That's what I think will help you avoid being a victim.

*Amy:* So you say yourself as a victim at one time but not anymore?

*Daisy:* Yes. I was, because I was, I was down on my luck. I was feeling very....my self esteem was low. I had a good job, I was in a car wreck...I got injured, I lost my job, I lost my apartment in the end. I had no one to help me.

At first Daisy said that being a victim means having something happen to you that you cannot control. However, immediately after this she said that she's not going to be in a victim "frame of mind" and thus, won't be a victim anymore. This indicates that Daisy does possibly see her victimization as something she could have controlled. Most likely, this contradiction is the result of two simultaneous beliefs held by Daisy: (1) the violence she experienced at the hands of a man she called a "mad, sick, evil person," was wrong and not something she deserved; and (2) if she were not "down on her luck" and in a victim "frame of mind" she may have avoided being hurt.

Again, it is not clear if Daisy would have avoided the violence, even in she was not in a victim "frame or mind." She even stated that when she dated her attacker previously he was "nice" and gave her no indication that he had the capability to be violent. She told me that at the time of the attack, she was living in a "seedy" hotel and had invited her ex-boyfriend to her room to have a few beers and talk. He left, but returned later to retrieve his backpack--which he had left in her room--and it was at this point that he attacked her. Perhaps she felt that in different circumstances she would not have invited him to her room nor had beers with him. Again, this claim could easily be interpreted to mean that Daisy saw her victimization as her own fault since she was drinking with him; similar arguments are frequently made about women who are victimized, particularly in rape trials.<sup>7</sup> However, this was not Daisy's intent. She recognized she is not to blame for her attack. I believe that the contradictions in Daisy's narratives demonstrate that, like Karen, she was unable to express herself with current available "victim" discourses. She wished to express she has been horribly violated and wrongly harmed. However, she also wished to simultaneously express that she is not helpless and powerless, and that she does have some control over events in her life. However, mainstream understandings of victims made it difficult, if not impossible, for her to do this.

"I Can Be the Victim or I Can Be the Survivor": Communicating Agency

The limited ways that "victim" is culturally constructed led some of the women I interviewed to reject this identity and instead claim the identity of "survivor." According to Dunn (2001), "from the perspective of [victim's] advocates and victims themselves, victims 'ought' to transcend their victimization and become



*survivors* in the definitional process” (p. 307). Dunn observed a support group for stalking victims and she found that many of the women in the group who had left their abusive relationships saw themselves—and encouraged other women in the group to see themselves—as survivors. The leaders of the support group instructed the other women “to resist victimization, to learn how to rely on themselves rather than the criminal justice system, and become ‘survivors’” (p. 308). This meant—among other things—“getting off their pity pots,” “empowering” themselves, being proactive, and allowing themselves to become “depressed or defeated,” and “not letting” their abusive partners take their self-esteem. This way of thinking is not just common to victim’s advocates, but also to other groups that work with battered women, such as shelter staff, therapists and social workers (Profitt, 1996).

Indeed, three of the four women I interviewed who claimed a “survivor” identity were, at the time of the interview, either living at a shelter for battered women or involved with shelter outreach counseling. The fourth woman was involved with counseling through a drug outreach center. Most likely, these women were introduced to “survivor talk” through their counseling experiences. However, as the women demonstrated, claiming a survivor identity was also a way for the women to demonstrate they are not weak and helpless; this became particularly important if the women had taken some measures to end the violence in their lives. As I have demonstrated, the victim/agent dichotomy positions women who accept a victim status as lacking agency. Daisy’s and Karen’s narratives demonstrate that if abused women wish to assert they have experienced harm while simultaneously rejecting



culpability, there are few discursive options for them to communicate that they have control over their own lives. Using survivor discourse is a way for women to do this.

For example, Florence, a 50 year-old white woman, described herself as "very vulnerable" the night she met and moved in with the man who eventually became her husband (whom she was separated from at the time of the interview). When I asked her what the term "victim" meant to her, we had this interchange:

*Florence:* I have a weird philosophy on that. I don't think the batterer makes you the victim; I think you make you the victim. It's like the glass of water—is it half full or half empty? I can be the victim or I can be the survivor. So I choose to be the survivor. For me, I . . . you know, it took me ten years to get here; I'm not going to get psychologically or emotionally or even physically out of this overnight. But there's hope. And where there's hope, I'll be more than glad to apply myself. I refuse to be a victim. A victim is someone, to me, that, if I haul off and punch you right now, you go cower in the corner and then go home tonight and tell everyone (mimics weeping), "she hit me." But if you say, "Hey, you know what, I'm not going to call the cops on you, but you're not going to hit me again." You know, or "That slug, that's nothing. You're bullshit." You know, "You're not going to get me down on that." That's a survivor; you know: "I'm going to go home, put an icepack on my nose, and forget about you, pal."

*Amy:* So that's the difference for you between the two? And you see yourself more as a survivor than a victim?

*Florence:* You know, like I said, it's you know, it's going to take thousands of dollars and years of therapy, but I'll be damned if I . . . if I allow myself to be a victim, I've beaten me *for* him. I'm doing his job for him, and I'll not do that.

For Florence, being a survivor meant "applying herself" and standing up to her abuser, which she equated not with calling the police on him, but verbally confronting him. She found this preferable to a victim identity, which she saw as doing nothing but cowering and complaining. According to Florence, a survivor identity is a more empowered one which she identifies with now that she is out of the relationship.

After I asked her to talk about whether or not her experiences have changed how she views herself, she stated:

I'm very codependent; I have to work on that. That's something about me that I need to fix, because I think a lot of me staying with him was [because] I wanted to

fix him. And . . . you know, I . . . I don't look at some of my things . . . when I was with him, I looked at things as my faults. Today, I look at things as characteristic traits that I can build on and go up. I have this theory, most of your major car wrecks happen because some idiot was sitting in the road in neutral. You know? *Do something!* I mean . . .so, that's what I want to do. I'm doing one-on-one with my counselor. She bought me a workbook, *Codependent No More*, and I'm just eating it up. Well, I tell you what, that man don't . . . if and when I finish that workbook, he won't come around me. [Laughs] But I want to . . . I can either sit in it and think about what all I did wrong and what I caused, or maybe if things hadn't happened to him, this wouldn't happen, or I can say, "He is just pure and simple a jerk. I'm out of here. I'm going to go fix the things in me that he broke, or that I allowed him to break. If he wants a welcome mat, he can go get one at K-Mart for \$2."

Now that she is out of the relationship, Florence sees herself in different terms: "when I was with him, I looked at things as my faults. Today, I look at things as characteristic traits that I can build on and go up." She is "working" on the things in her that she perceives as "broken." What appears most important to her is "*doing* something" and it is this expression of agency that led her to claim a survivor identity and reject a victim one.

A survivor identity is also, in many ways, a less stigmatized one than that of victim. This is demonstrated by Liz. As discussed above, Liz is addicted to speed; she also told me that she was physically and sexually abused as a child and has mental health issues. Liz and I had the following exchange:

*Liz:* I'm not strong, but I have...I'm street-smart and I'm a survivor. So that's the only thing holding my ass up.

*Amy:* How do you see yourself as being a survivor?

*Liz:* Look at my history.

*Amy:* Just that you're still here today and...

*Liz:* My children are well-mannered, well-behaved, well-dressed, you know what I mean. They're well-taken care of and they're very, very, very loved. Loved more than anything in the world. That gives me a lot of satisfaction. And you know, I do keep surviving. My morals, I do have my standards. I do have things that I won't do and I'm a good person.

For Liz, being a survivor meant that, despite what she has gone through in her life, she is still a good parent and she still has "morals" and "standards." While she said she is not strong, she did make clear that she's a "good person." For Liz, her "history," alone, demonstrates that she is a survivor.

Nonetheless, the "survivor" identity was not without problems for the women, either. Betsy, a 41 year-old white woman who had just left her second abusive relationship told me she did not like the term "victim," because once battered women get out of their abusive relationships, they are survivors. I asked her what the term "victim" meant to her and she said, "Like you're helpless. And in a lot of ways, we are when we're in that situation. We are helpless. But once we get out, we're not helpless anymore." However, later in the interview she acknowledged "feeling like a victim still" because she was still afraid of both her ex-husband and her ex-boyfriend. For her, this fear appeared to be at odds with what it meant to be a survivor. Thus, despite her assertion that "once we get out we're not helpless anymore" she said that "in some ways I am still helpless" because she was still afraid. This appears to be where the "survivor" identity fails her.

### Summary

This chapter has examined the role of discourses in battered women's decisions to claim or reject the identity of "victim." I have explored three culturally dominant ways of understanding the identity of "victim": viewing victims as culpable for the violence they experience; viewing them as experiencing a harm they couldn't control; and viewing them as passive, weak, and helpless. Battered women appear most likely to claim a victim identity to acknowledge they have been harmed or

wronged at the hands of someone else. However, for many women, this discourse is insufficient as it is inseparable from the notion that victims are unable to control any aspect of their lives. While some women claimed a victim identity *because* their experiences with violence left them feeling weak and helpless, most did not perceive themselves this way and thus the identity of "victim" became less salient to them. These women's experiences were inconsistent with constructions of passivity and helplessness; many of them believed they could and did do things to counter or even end the violence in their lives, like calling the police on their abusers, fighting back, or leaving the relationship. The women recognized that a victim identity is often a stigmatized one, associated with blame and/or weakness and helplessness; this influences their perceptions on the usefulness of portraying themselves as a "victim."

In Chapter Six, I examine the identity work of the women I interviewed in the context of the identity of "battered woman." Many of the processes employed by the women are similar to what I have discussed in this chapter. Thus, because Chapters Five and Six are two facets of a larger analysis, I will forego making additional conclusions here and will present the combined conclusions for both chapters at the end of Chapter Six.

## NOTES

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<sup>1</sup> While my sample was racially diverse and included women of varied economic backgrounds, no patterns emerged to indicate that women of different social locations use discourses surrounding the "victim" or "battered woman" differently. However, a woman's social location did appear to directly influence her identity work with law enforcement officers; I will discuss this in Chapter Seven.

<sup>2</sup> An aspect of a "victim" identity related to the later of these discourses is a person whose voice cannot be contested, as such a person is constructed as "morally superior" to non-victims (Lamb, 1999).

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<sup>3</sup> This was a common theme that I will discuss more in-depth in Chapter Seven.

<sup>4</sup> Merry (1995a) refers to this as "rights talk," which she defines as "the way rights are commonly used as the basis of claims for help or definitions of self in relations to others" (p. 273).

<sup>5</sup> I do not wish to indicate here that "responsibility" is synonymous with "blame"; as I will demonstrate in this section, the women I interviewed believed there to be a difference between these two. However, I use the term "responsibility" for lack of a better term.

<sup>6</sup> Another framework that could be used to explain the women's claims of responsibility is Lerner's (1980) "belief in a just world" theory, which posits that people have a need to believe that the world is an orderly, predictable, and just place. In this "just world," people "get what they deserve" (p. 11). Thus, under this perspective, a person who experiences some type of misfortune or troubles is viewed as having done something to deserve her or his suffering. If the women I interviewed believed they lived in a "just world," they would likely view their victimization as a result of something they had done wrong. However, it is important to note that some researchers (see, for example Kleinke and Meyer, 1990) have found that women, regardless of their belief in a just world, tend not to blame or denigrate victims of rape. Further, few researchers have examined how the "belief in a just world theory" impacts how people view their *own* victimization.

<sup>7</sup> Daisy's attacker was sentenced to 23 years for aggravated sexual assault.

## CHAPTER SIX

### **"I Don't Need the Pity of a 'Battered Woman'": Domestic Violence and Identity Claims**

In Chapter Five, I discussed three hegemonic discourses that construct the identity of "victim." There also exist hegemonic discourses that construct the identity of "battered woman." These discourses are connected in many ways. Not only are both of identities "troubled" (Gubrium and Holstein, 2001), but battered women are considered "victims" of domestic abuse. However, the battered women's movement and other social institutions that have addressed domestic violence—such as the criminal justice system, the media, and academia—have represented the "battered woman" in distinct and specific ways. Thus, the identity of "battered woman" is more specific and has more narrow connotations than does the identity of "victim." In Chapter Five, I examined the ways in which women use hegemonic "victim" discourses in their identity work; in other words, I demonstrated the conditions under which women in abusive relationships claim or reject the identity of "victim" and how they use culturally dominant "victim" discourses in the process. In this chapter, I do the same with the identity of "battered woman." At the end of the chapter, I will discuss conclusions relevant to both Chapters Five and Six.

#### **The "Battered Woman"—Three Hegemonic Discourses**

There are three culturally dominant ways of understanding the identity of "battered woman" that I will discuss. Just as the three hegemonic discourses I discussed in Chapter Five surrounding the identity of "victim" are interconnected, so are the three discourses I explore surrounding the identity of "battered woman." The first discourse, which I explored in-depth in Chapter Three, constructs battered



women as "pure victims" (Davies, Lyon, and Monti-Catania, 1998; Loseke, 1992). The second discourse, arguably a product of the first, depicts the "battered woman" as powerless and helpless. The third discourse, which serves as the basis for current understandings of domestic violence by the battered women's movement, portrays domestic violence as an issue of power and control and constructs the "battered woman" as someone who experiences multiple types of abuse.

Loseke (2001) discusses narratives (or "formula stories") that "can become virtual templates for how lived experience may be defined" (p. 107). She maintains that the "wife abuse" formula story can be an "interpretive resource" for women, in that it "helps women conceive of themselves in terms of the identity or type of person that has come to be called the 'battered woman'" (p. 107). Loseke focuses on one particular narrative surrounding domestic violence—what she calls the "wife abuse formula story"—and its role in a support group for battered woman. My work in this chapter is similar to Loseke's; however, instead of focusing on only one understanding of the "battered woman" and the way in which women use it in their identity work, I examine three culturally dominant narratives—which I refer to as hegemonic discourses—and the way in which women use them to structure their selves.

#### Discourse One: The "Pure Victim"

As Davies, Lyon, and Monti-Catania (1998) have argued, the "pure victim" representation was used by the battered women's movement to counter discourses of blame, create sympathy for battered women, and bring increased public awareness to the problem of woman battering. This image involves several characteristics. To

briefly review, under this construction battered women are portrayed in the following ways: as wives who adhere to traditional gender roles and are economically and emotionally dependent on their abusers; as passive and not themselves violent; as experiencing frequent and severe violence; and as extremely fearful of their abuser. A major part of this construction involves depicting battered women as unable to leave the relationship without outside intervention (Loseke, 1992).

While none of the women that I interviewed discussed *all* of the characteristics of the “pure victim” when talking about what the term “battered woman” meant to them, many of the women mentioned at least one, and sometimes several, of these characteristics. A few reflected the notion that battered women are wives who adhere to traditional gender roles. For example, Jewel, a 37 year-old African American woman who had just moved across the country to get away from her abusive fiancé, described how—prior to her own experiences with violence—she viewed a “battered woman” to be: “...a woman, mostly a woman at home, a homemaker who always has a bruise or a black eye, you know, who walks around skittish...” Jewel demonstrated that at one time she believed a battered woman to be a woman who stays at home, adhering to traditional gender roles. As I will discuss later in this chapter, Jewel reported that eventually her understanding of a “battered woman” broadened and this led her to claiming the identity for herself.

The most common aspect of the “pure victim” construction reflected in the women’s narratives is the belief that to be a battered woman means experiencing severe physical violence. Several of the women, although they themselves did not believe this, demonstrated awareness that this is a common cultural conception.

Take, for example, Gina, who stated that she hated the term "battered woman" because it sounds like you have to be "battered and beaten" to be taken seriously. Other of the women's own conceptions of "battered woman" involved the belief that to be a battered woman means experiencing primarily physical violence. Because they did not see the violence they experienced as falling into this category, they rejected the identity of "battered woman" for themselves. I asked Barbara how she related to the term "battered woman" and we had the following exchange:

*Barbara:* I still don't see myself as a battered woman.

*Amy:* So how do you see that term?

*Barbara:* I see that as somebody who ends up in the hospital, who is repeatedly hit.

*Amy:* So you don't relate to the term because that's not what happened to you?

*Barbara:* Right. Although I feel like I should, but maybe it's because [the abuse from my ex-husband] has been more emotional than physical. And I think of battered as being more physical.

Barbara demonstrated the power of discourse that constructs the "battered woman" as someone who suffers serious physical abuse. She described a battered woman as someone who "ends up in the hospital" and said that while she "feels like she should" identify with the term "battered woman," she does not because her husband was more emotionally abusive than physically abusive.

Tammy also was not able to definitively claim or reject the identity of "battered woman." When I asked her if she saw herself as a "battered woman" she said the following:

Um, yeah. I had a lot of bruises. I never had black eyes or anything, I used to get my lip cut all the time. He would hit me and I'd be bleeding from my lip. I've heard of women being really, really beat up and I was never beat up to where I couldn't move or anything like that, I never had no bones broken, but I had bruises and stuff. But, I don't know...I don't think I see myself as a battered woman, I was never REALLY beat up.

At first Tammy said she did see herself as a "battered woman," by replying "um, yeah" when asked. She described how her boyfriend hit her and repeatedly gave her a bloody lip; she even stated, "I had a lot of bruises." However, interspersed throughout this commentary are statements that also downplay the extent of the violence she experienced: "I never had black eyes..." and "I never had no bones broken." Ultimately, she decided to reject the identity after concluding "I was never REALLY beat up." Tammy clearly struggled to make sense of her experiences with the use of the "battered woman" identity. The idea that violence must be severe for someone to be a "battered woman" appeared to hold much weight with her. She seemingly rejected the identity of "battered woman" in order to minimize the seriousness of her own situation.

A final aspect of the "pure victim" construction involves portraying the "battered woman" as unable to leave the relationship without outside intervention or assistance. This notion was also reflected by several of the women I interviewed and again, women often used this as a way to reject the identity of "battered woman." Shondra, a 55 year-old African American woman, was physically assaulted one evening by her fiancé in what she described as an isolated incident. She had reported the assault to the police the morning after it occurred, and a warrant was issued for her fiancé's arrest. She never told her fiancé about this and it was not until months later that he was picked up on the outstanding warrant. At the time of the interview, she had not spoken to him since he had been arrested. I asked her if she saw herself as a battered woman and she replied that a battered woman is someone who is "trapped" in an abusive relationship and cannot get out, and this is not her. Shondra seemed

unsure about whether her relationship would continue. However, she clearly felt that if she wanted to leave the relationship, she could. This led her to reject the "battered woman" identity, as her understanding of such an identity is a woman who "can't get out" of the relationship. Shondra's words demonstrate that a consequence of the "pure victim" construct is that the "battered woman" has become someone who is unable to act in her own best interests.

#### Discourse Two: Battered Women as Powerless

As I have discussed, while the image of battered women as "pure victims" was generated to gain public sympathy for the plight of battered women and communicate the need for social institutions to assist women who are abused, it has effectively rendered the "battered woman" helpless; this has become another culturally dominant understanding of the "battered woman." Loseke (1992) writes:

...[the "battered woman"] representation furnishes a *mandate* for intervention since, in the final analysis, a battered woman type of person *requires* help if she is to be able to remove herself from her plight. After all, she is constructed as a person who "cannot cope with the outside world without some assistance and intervention," as "too demoralized to assert herself," as "bewildered and helpless," and as "overwhelmingly passive and unable to act on her own behalf." (p. 28)

This construction of the "battered woman" is strongly tied to discourse constructing the "victim" as weak and helpless. Again, while both of these representations were originally created to remove blame and/or responsibility from a person, the end result has been the creation of a subject lacking power or agency. In Chapter Five, I demonstrated that many of the women I interviewed recognized that "victims" are often viewed as weak and helpless and some of these women subsequently rejected this identity, as it did not match their experiences or perceptions of themselves. The narratives of the women reveal that a very similar process occurred with the identity

of "battered woman." As Robin stated of the term, "there's just a real sensation of hopelessness when you hear that word. I don't know how to describe it."

Over one-third of the women equated the term "battered woman" with helplessness and passivity and this most often led them to reject the identity for themselves. For example, Veronica, a 24 year-old African American woman who has been in several physically violent relationships and, at the time of our interview, was in a relationship with a man who was occasionally verbal abusive, said the following:

...Ok, "battered woman." I mean, to me...I mean, it means what it says. But I just don't apply it to me because...I know I can defend myself; I know I can. So it's like to me...even dealing with the [criminal justice] system...I'd rather take care of it myself. I don't even want to deal with the police...now, if something gets bad, I wouldn't even call them myself. I would just see what I could do, wait it out, and just silently call around and see how I could get out of here. That's how I would deal with it.

For Veronica, a "battered woman" is someone not able to deal with violence or abuse on her own. She, however, did not appear to have any doubt that she could deal with the situation herself. She stated that she does not want to deal with the criminal justice system or call the police, not only because she had prior bad experiences with them (which I will address in the next chapter), but because she "knows" that she can "defend herself." All of this led her to reject the identity of "battered woman."

Like Veronica, Paula also did not see herself as a battered woman. Paula and her husband had been in a relationship for eleven years. He had been physically violent on one occasion in the beginning of their relationship. One evening several months prior to my interview with her, however, her husband got drunk and became verbally abusive. She threw some water on him and he became violent, kicking and



choking her. She then ended their relationship. After I asked her what she thinks of when she hears the word, "battered woman" we had the following interchange:

*Paula:* The victim of...a woman maybe more frail than me that...see, I wouldn't...I don't know. I would never consider myself a battered woman. I mean, the way that all came down, yeah, but I mean, when I think of a battered woman, it's something that's been going on and a woman that's left herself and not stood up to the guy or whatever. And I would be, like, "Come on!" [Laughs] You know, I mean...

*Amy:* OK. Someone who's more passive, maybe?

*Paula:* Yeah.

*Amy:* And you don't see yourself as that.

*Paula:* No.

Paula said that a battered woman is someone who is "frail," has "left herself," and hasn't "stood up" to her abusive partner. She did not see herself in this depiction and thus, she also rejected the identity of "battered woman" for herself.

While Paula, like Veronica, saw a battered woman as not being able to stand up for herself or defend herself, she also stated that a battered woman is someone who has "left herself." This reflects Loseke's (1992) argument that the "battered woman" is often viewed as so beaten down that she has no sense of self: as "too demoralized to assert herself" (p. 28). Such an idea is also central to Lenore Walker's (1979) notion of "learned helplessness," which I discussed in Chapter Three. Walker argues that repeated violence diminishes women's self-esteem and leaves them passive and unable to care for themselves. Paula was not the only woman I interviewed who reflected this idea. For example, Gloria said the following:

Well, I think battered woman can be a physically abused woman or an emotionally abused woman. And I think "battered" has a lot to do with the self-esteem and the breaking-down of your self when someone's abusing you in whichever way it is. And so, I don't know. That's what I think of "battered." I mean, it could be a physical thing, like; you know, you physically got beat up. Or it could be an emotional thing where he's telling you, "You're nothing; you're never going to be...you're a loser and nobody wants you, and..." You know, the whole works.

Gloria's conception of a "battered woman" moves beyond the "pure victim" discourse in that, for her, a battered woman may experience more than just severe physical violence: she said, "it could be an emotional thing." However, she did see "battered" as involving a loss of "self-esteem." When I asked her if she saw herself as a battered woman she replied, "my personality is so strong, I couldn't . . . I couldn't even see myself, like, as a person who is getting beat up or a person who was allowing someone else to emotionally tear me down. So, no, I couldn't . . . uh-uh, I couldn't claim that I'm a battered woman." Gloria rejected the identity of "battered woman" for the same reasons she rejected the identity of "victim" (discussed in Chapter Five). She views herself as "strong," and like Paula and Veronica, believes that she is able to stand up to her abusive ex-boyfriend. She stated that is not going to "allow" anyone to "emotionally tear her down."

Veronica, Paula, and Gloria have all experienced verbal abuse from their partners; further, Paula and Gloria have also experienced physical violence. However, none of these women saw themselves as battered women. For them, being a "battered woman" involves something beyond experiencing abuse from a partner: it also involves passivity and a loss of self-esteem. Thus, their interpretations of the identity of "battered woman" reflected hegemonic discourse that positions battered women as helpless and weak. However, there was also an underlying sense (particularly for Paula and Gloria) that a "battered woman" is someone who "lets" their partner abuse them. Several other women also reflected this belief. For example, Liz said that the term "battered woman" does not describe her. When I asked why, we had the following interaction:

*Liz:* Because I'm not gonna let any man beat me up like that. I'm not. I don't need [the] pity of a "battered woman."

*Amy:* So you feel like that word evokes pity?

*Liz:* Mmm-hmm...I'm not being beat up. I'm being emotionally abused and that's a long scar. Physical [abuse] heals. [Emotional abuse] doesn't leave marks forever, but...it's a whole new ball game.

Clearly, some of the women I interviewed distanced themselves from the identity of "battered woman" because they believe that battered women, for whatever reason, "let" their partners beat them up.<sup>1</sup> The women's rejection of the identity was done in order to demonstrate that they are *not* passive and weak.

The narratives of the women discussed in this section also highlight the complexities in determining what actually constitutes a "battered woman." As Belknap (2001) writes:

...there is not complete agreement over what qualifies as battering. Researchers have suggested disagreement over such issues as to whether "only" psychological battering makes a woman battered. There is also disagreement as to whether a woman who is hit "only" once is battered. Some researchers' definitions of battering require a systemic occurrence where battering is an ongoing aspect of the relationship. (p. 269)

According to the "pure victim" construction, a "battered woman" *is* someone who experiences ongoing physical battering and has difficulty leaving the relationship. Many of the women I interviewed reflected this belief; the majority of women who had experienced violence from their partners on "only" one or two occasions were the least likely to see themselves as battered women. This included both women who ended their relationships because of these one or two violent incidents (like Paula and Gloria), and women who believed the one or two incidents they experienced were an anomaly in their relationship and not likely to happen again (like Veronica).

Other women also believed that battering is equated with ongoing, physical

violence. Lauren's boyfriend hit her in the head and after this incident he became increasingly emotionally abusive, which led her to break up with him. She said the following when I asked her if she saw herself as a "battered woman":

No, I really consider that more a woman who'd go back. And be hit again, and then leave and be like, "oh he loves me, he won't do it" and then go back and be hit again. And in a sense, I did that, because I was back the first time after he hit me. And he never, between those episodes he never hit me or anything, but became increasingly violent and as soon as I realized what was going on, one month, it was cut off....

Lauren saw a "battered woman" as someone "who'd go back" repeatedly, and experience multiple incidents of physical violence. While she acknowledged she "was back" after he hit her, she rejected the identity of "battered woman" since she ended the relationship because of his escalating emotional and verbal abuse. Daisy, who was sexually assaulted by a man she used to date, expressed similar sentiments. We had the following interchange after I asked her if she thought she was a "battered woman":

*Daisy:* I don't relate to that word because I've never been in a battering situation. I have friends who are in that situation, where men are beating them, and I cannot understand how they sit there and let someone do that to them. When there's physical, and mental, I cannot understand.

*Amy:* So for you it means something long term, both physical and mental?

*Daisy:* Yes, I think it's something that you live with every day. Every day you feel like you have no choice but to stay there. And I'm not in that.

Daisy, like Lauren, saw a "battered woman" as experiencing long term abuse—something they "live with every day." And, as she stated, "I'm not in that." The narratives of the women I interviewed illustrate that, for many of them, being a "battered woman" means experiencing ongoing abuse. Women view a "battered woman" as someone who stays in the relationship—*why* the "battered woman" stays does not seem to matter. Whether she stays because of "low self-esteem," fear,

because she "feels she has no choice," or for social structural reasons, the point is that she is somehow "trapped" in the relationship and is unable to leave. Women who did not see themselves as helpless or powerless to leave were much more likely to reject the identity of "battered woman."

Several women who experienced one or two incidents of violence, like Veronica, did choose to remain in their relationships. None of these women saw themselves as a "battered woman" because they viewed the incident as isolated. For example, Ann, a 36 year-old white woman and her long-term boyfriend, Alan, were out drinking one night and got into a fight on the street. When he punched her in the chest, she ran to a nearby hotel and a desk clerk called the police. Ann said that Alan had never been violent before. She separated from him for awhile and then got back together with him after he stopped drinking and went to anger management classes. She said that since then, there's been "no problems" and "everything's fine." Veronica said she has never thought of herself as a "battered woman." She described how after the incident happened she did research on the internet to see what the "typical battered woman" is like and she concluded her relationship did not fit into this profile.

Ann told me that in college she worked at a shelter for battered women and she had always thought if a man hit her she would end the relationship. She said the following:

And after [the incident] I thought, what's wrong with me that I, you know, made up with Alan. You know, cause I was always the type of person that would say, "Oh my god, if a guy ever hits a woman, that's IT. No matter what the reason is or anything. They can never, ever go back with them."



I asked Ann why she thought she ended up getting back together with Alan if this was her belief and she replied:

Well, because, every situation is different. And, you know, hopefully what happened will never again happen. I can make up all kinds of excuses: Alan was drunk, I was drunk, I provoked him, whatever....I mean, he still did it and it's still wrong. But, you know, he did go to counseling, he did quit drinking, um, he.....and I guess I started to think, well, maybe not everybody who hits someone does it again. I mean, who says it HAS to be like that.

Ann reported wondering what was "wrong" with her that she "made up with" Alan: she was obviously aware of dominant discourse that negatively depicts situations women who "stay." She told me that she herself had thought a woman who is hit by her partner should never stay in the relationship. Yet, she said that Alan went to counseling and quit drinking and she has contemplated the idea that "maybe not everybody who hits someone does it again." For these reasons, she decided to stay in her relationship. However, Ann rejected the identity of "battered woman" for herself because she sees Alan's hitting her as a one time incident and she did not see herself fitting into the profile of a "typical battered woman."

#### Discourse Three: Battering as About Power and Control

As I have demonstrated, the battered women's movement politicized domestic violence. As Schneider (2000) argues, part of this involved situating battering within a "larger context of 'power and control'" (p. 22). She writes, "The 'power and control' wheel developed by the Domestic Abuse Prevention Project in Duluth identifies interrelated dimensions of physical abuse, economic abuse, coercion and threats, intimidation, emotional abuse (using isolation, minimizing, denying, and blaming), and abusing male privilege" (p. 12). Thus, under this perspective, battering can (and usually does) involve much more than physical violence. While the "pure



victim" discourse also recognizes that batterers use more than physical abuse to control and dominate their partners, it emphasizes the "extreme" physical violence that the "battered woman" experiences (Davies, Lyon, and Monti-Catania, 1998). Therefore, I argue that the "power and control" discourse constructs a much broader conception of the "battered woman" than does the "pure victim" discourse. Understanding a "battered woman" to be a victim of more than just severe physical violence was the most common theme reflected by the women I interviewed.

Over half of the women alluded to the belief that a "battered woman" is someone who experiences multiple types of abuse. Take, for example, the words of Mary: "Battered means much more than just physical. It means mental, verbal, and ...these kind of men, they find you when you're really vulnerable...And they prey on that. They're like predators." Like Mary, many of the women's conception of "battered woman" included more than just physical harm; they described the following types of abuse: "emotional," "mental," "verbal," "sexual," "psychological," and "financial." They reported being kicked, choked, slapped, hit, punched, burned with a cigarette, and sexually assaulted. The women spoke of having broken bones, bruises, black eyes, scratches, and missing teeth. One woman described how her husband came very close to killing her. The women had property destroyed, broken, and burned. They were stalked, followed, harassed, and threatened with weapons. They spoke of having to turn over their paychecks, not being allowed to work, and having their spending habits monitored. One woman described hiding packages of meat in her young son's pants so her husband wouldn't beat her for spending too much money at the grocery store. The women

were told they were psychotic, hysterical, crazy, and were called "bitches," "whores," and "sluts." Other women spoke of being isolated and not being allowed to get the mail, use the phone, or have contact with friends and family. A few women spoke of incidents where they were kicked out of the car or the house. Carla summed up her conception of what it means to be a "battered woman" with her statement that a battered woman is "not recognized as a human being."

Just under half of the women I interviewed claimed the identity of "battered woman." Almost all of the women who claimed the identity used discourse that framed battering as an issue of power and control. Women seemed most likely to use this discourse in order to show the harm of violence that is not physical in nature. This was seemingly done to counter "pure victim" discourse that depicts battered women as most damaged by severe physical abuse. For example, Karen said the following of a "battered woman":

...She's not battered, she's broken. She's broken in more ways then battered, I think. She's broken emotionally and physically and he's broken down every part of her...that has to be mended. So she's battered, yeah. But...battered means bruised. When you first think of battered you think of bruised. So, unless [women are] bruised, too many people [don't see] them as battered. But they're battered if they're emotionally, you know, shot down, or left out on the street on their own... The mental and verbal abuse...they're battered in so many ways. When I...hear the word battered, the only thing I think of is there's this woman who's black and blue all over. But the woman that's battered is battered EVERYWHERE, [on the inside], from head to toe.

Karen saw herself as a "battered woman," although she did struggle with the identity; for her, it had limited cultural connotations. She was aware of people's tendency to focus on the physical aspect of battering, such as bruising. However, she made clear that a "battered woman" is also abused "emotionally," "mentally," and "verbally": a woman whose partner has "broken down every part of her."

For many women, stressing the impact of the non-physical abuse they experienced appeared to be important. Two women discussed the abuse of their "souls." For example, Ellen reported that her ex-husband was very controlling and verbally abusive. He also broke things in their house when he got angry. When I asked her if she saw herself as a battered woman the following exchange ensued:

*Ellen:* My soul has been battered. You know, my soul, I sold my soul to him. I sold my soul. Anything that was important to me, I relinquished. I gave everything that I had, physically, emotionally, financially, to this man, who had everything he needed...

*Amy:* Do you see yourself as being battered emotionally?

*Ellen:* Emotionally. I don't see myself as being physically battered because he never [hit her]...although it's really not okay to smash things.

As I have demonstrated, some of the women whose idea of a "battered woman" was strongly influenced by the "pure victim" discourse rejected the identity because they did not experience severe physical violence. However, Ellen did see herself as a "battered woman" despite the fact that her ex-husband was not physically abusive to her. While she acknowledged that smashing property is "not okay," she focused most on the emotional abuse she experienced.

Florence expressed a similar sentiment. However, unlike Ellen, Florence did experience physical violence from her partner, Dan. In fact, at times it was quite severe: one incident involved Dan beating her so badly that he ruptured her spleen and she required surgery and a three-week hospital stay. Another time Dan and Florence were traveling with a co-worker of theirs. Dan forced Florence to have sex with the co-worker in exchange for drugs. After the two men passed out, Florence hitch-hiked a ride to a nearby city; she was staying at a battered women's shelter

when I interviewed her. We had the following conversation after I asked her what the term "battered woman" meant to her:

*Florence:* A lot of people look at the term 'battered woman' as being physically hit. I don't look at it that way. I look at it mentally, emotionally. My soul gets raped. You know. He's not laying a hand on me right now, and I feel battered.

*Amy:* After...as a result of everything that's happened?

*Florence:* Oh, yeah. [At the shelter] they're thoroughly convinced that I've got post-traumatic stress disorder. (Discusses how she doesn't want to take any prescription medication and will have to deal with things on her own).

*Amy:* So you see yourself...how you relate to the term "battered woman" is that you see yourself still...being battered now by the aftermath of it all?

*Florence:* Oh, sure. Sure. I'm the one that had to hitchhike with a truck driver. You know. I didn't know what was going to happen to me. But, see what I was leaving—a man that would threaten to beat me if I don't sleep with his friends. You know. I'd rather [have] some unknown guy rape me.

Florence described still feeling battered by her ex-boyfriend even though, "he's not laying a hand on her." She said of Dan, "He's hurt me more than I love him, now." Here she was referring to emotional hurt, which she viewed as worse than anything physical that Dan did to her. Battered women commonly report psychological and emotional abuse to be the most damaging (Belknap, 2001). Indeed, this was true for many of the women I interviewed. Again, this served not only as a direct challenge to discourse that frames battery as primarily about physical violence, but it also was a way for women to assert that their experiences with non-physical abuse are extremely damaging.

### **Battered Women and Stigma**

There appeared to be similar interpretive processes surrounding the identity of "battered woman" as there were for the identity of "victim": contradictions appeared between several of the women's understandings of what it meant to be a "battered woman" and their own identity claims.<sup>2</sup> For example, Nicki, a 24 year-old African

American, was separated from her husband Thomas at the time of our interview. He had gone to Nicki's house one day because he was upset with her that she had gone out to a club the previous night. They got into a verbal altercation and she reported that he pushed her a few times. At one point, he picked up a knife, but she said it was not done to threaten her. Nicki was on the phone with her sister when Thomas came over and Nicki's sister, after hearing how upset Thomas was, called the police. Nicki stated that this was not the first time that the police were called because of Thomas' actions—she had called the police on him a year ago when he hit her. Nicki said that a "battered woman" is not just someone who is physically beaten, but is also "verbally and emotionally" beaten. However, when I asked Nicki if she identified with the term "battered woman," she said "no" since Thomas never "got really physical" with her; he pushed her around and yelled at her but never really hit her with his fists. While Nicki at first provided a broad definition of the identity of "battered woman," that included verbal and emotional abuse, she later reverted to discourse framing battered women as only experiencing severe violence. She rejected the identity of "battered woman" for herself, because, while she said Thomas pushed her and yelled at her, he never hit her with a fist.

Darla, a 36 year-old African American woman who had left her abusive boyfriend at the time of our interview, reported that her boyfriend had "slapped [her] a couple, punched [her], and things like that." Additionally, he threw a glass at her on one occasion. She also described how he tried to pressure her into buying drugs for him and was extremely jealous of her relationships with other male friends. She understood a "battered woman" as someone who has "been through emotional and



verbal besides physical. It's all of the above." I asked her if she thought this described her experiences with her ex-boyfriend and she replied, "Yes, uh-huh. It really did." However, when I asked Darla if she saw herself as a "battered woman" she stated, "I really don't know. I haven't really looked at it like that." Darla defined "battered woman" in a way that would seemingly describe her own experiences. However, while she did not directly reject the identity as Nicki did, she also did not readily apply it to herself. While she says that "in [her] heart of hearts" she "feels" like a "battered woman" she is hesitant, on some level, to describe herself in these terms.

It is not immediately clear why women like Nicki and Darla fail to claim the identity of "battered woman" despite describing it in a way that seemed to match their lived experiences. Just as many of the women demonstrated that "victim" discourses are narrow and constraining, some of them appeared to see "battered woman" discourses in the same light. I have already discussed the fact that the understanding of "battered woman" offered by some of the women I interviewed involved an association with weakness and helplessness and this is one reason women rejected the identity. My interviews also reveal that the identity of "battered woman"--like the identity of "victim"--is a stigmatized one for some of the women. At Liz stated, "I don't need pity of a battered woman."

In a similar vein, Carla said the following when I asked her if she saw herself as a "battered woman": "The term is very...it covers it, but I hate to have that label. It just sounds like just another label, but not too cool." I asked her what was negative



about the term for her and she related the following incident that occurred while she was staying at a shelter for battered women:

The things that I don't like about [the term] "battered woman" is sometimes you look down on [battered women], and you're treated like a child because that kind of happened like at the safehouse. One of the ladies came in, one of the advocates or whatever, and obviously she doesn't have that much training on women's studies or anything else. And I know that. It doesn't matter. All [advocates] have to do is have a good heart and do what [they] have to do. But she's like, "oh, everything's going good at group today. The girls have been so good. The girls haven't been any problem. The girls have been good today" (Saying "girls" in a snide way). And here I am sitting there and here I am fifty-eight and a Black woman. And I said, "excuse me, but I'm not a girl, I'm a woman. Can I be a woman today?"

Carla's words indicated that she believes battered women are looked down upon and viewed as unable to take care of themselves. She did not like the patronizing attitude of the shelter advocate who called the clients "girls" and talked about them as one might talk about a group of children. Carla took offense to this, using her age and racial identity to assert that she is a woman, not a girl.

### **Shifting Interpretations**

Some of the women I interviewed described how their understandings of their own experiences shifted after the way they defined "battered woman" changed. Often, the women's original idea of what was constituted a "battered woman" reflected the "pure victim" discourse; thus, they believed a battered woman was someone who experienced severe physical violence. Holding this image at first resulted in the women not seeing their own experiences as abusive or problematic and consequently, they did not view themselves as "battered women." However, after becoming introduced to the discourse of power and control that frames battering more broadly, the women's notions shifted and they came to view their experiences differently.

For example, Beth a 48 year-old white woman, characterized the abuse she experienced from her ex-fiancé, George as primarily emotional. The following excerpt from her narrative illustrates how she came to recognize herself as a "battered woman":

Well, now...battered to me means they've just totally torn you down, physically and emotionally. I never realized [that]. "Battered woman" to me prior to meeting George was someone with bruises on them, you know, battering seemed more like a physical thing than an emotional thing. And in fact when I got this [brochure] from [the battered women's shelter] and it went into some of the psychological...[George has] broken...everything that he has returned to me has been broken or damaged. And I have boxes full of evidence on that. That's one of the things in [the brochure]: Isolating you. I never realized, in the beginning he didn't seem that way to me, and my girlfriend said something about [him] being controlling, and I said really? Because I didn't see. Then when I got this [brochure] and I saw George in every single one of these definitions, I went "oh, my God!" Now to me battering--even though I have had some bruises on the occasion--I have been much more battered emotionally and as a woman, with the dirty, ugly, the verbal harassment that he's done to me. The other women [he's been with] two days after he kicks me out or I leave or whatever the case may be, he has another woman in there immediately. That's battering. Holding [my car]. I'm now without transportation. You know, that's battering.

Here, Beth described the process of how she changed the way she viewed her own experiences after being introduced to a "new" discursive construction of a "battered woman." She reported that at one point she believed battering to be only about physical violence. Then, she received information from a local battered women's shelter. The brochure, which constructed battering as about power and control, listed signs of a battering relationship; included in these signs were behaviors such as isolating a woman and emotionally abusing her. This challenged Beth's previously held conception of a "battered woman." She described recognizing George in "every one of the definitions" on the brochure. This gave her a new interpretive framework through which to understand his behavior. She came to see things he did like holding

her car and having sexual relationships with other women as battering. This new, broader definition of a "battered woman" that Beth adopted after looking at the brochure resulted in her claiming of the identity for herself, when she previously did not.

Ellen had a similar experience as Beth. Her introduction to a "new" discourse or way of understanding "battered woman" came from a friend who had worked in the domestic violence field and who witnessed how Ellen's husband, Curt, treated her. Ellen described what happened one night after she had invited her friend and her friend's husband over for dinner:

...Curt was furious that I'd invited someone to the house. And so he just started making terrible jokes about me in front of them, really, and I didn't even realize it was a problem. I was so used to it, you know. And then he didn't laugh at their jokes, and he got really mad and went storming out of the house, you know, and [my friend] said, "Ellen, I used to work in domestic violence. Do you suspect that? I'm really worried about you. I think you're really meant to be hurt here." I was totally shocked. I couldn't imagine she was talking about me.

I asked Ellen why she didn't see herself as a battered woman. She replied: "I thought it meant you really had to get the shit beaten out of you. I never saw myself in that role [with Curt]. I never saw myself in that role with my first husband. I just thought they were mean and they wouldn't listen to me." Ellen said that she never saw Curt's emotional abuse as problematic. She thought his behavior, and the abusive behavior of her first husband, meant they were "mean" and "wouldn't listen to her." Further, she professed to thinking a battered woman was someone who was severely physically abused. For these reasons, she did not see herself as a "battered woman." Through her friend, however, Ellen was introduced to a new interpretive framework

and was thus given an alternative way of understanding her experiences. This resulted in her claiming the identity of "battered woman."

Finally, Jewel also changed her understanding of what it means to be a "battered woman," which led not only to her claiming the identity but also changed how she looked at other women. Earlier in this chapter I quoted her saying that at one point she believed a "battered woman" to be a "skittish" homemaker who "always has a bruise or a black eye." Because she held this image, she did not see her own experiences as abuse: "I thought well, I've got too much wherewithal about me to be a battered woman. It's not that bad. Battered means bad." Gradually, Jewel came to realize that her fiancé, who had hit her in the face, repeatedly yelled at her, and physically threatened her daughter, was "abusive." She said that her understanding of a "battered woman" has now changed:

Now my picture of a battered woman is it could be a teacher. I look at a lot of people, professional people, people that come into my stores to get their cigarettes. I work in a cigarette store, and I wonder, I look at them and they're in their great looking suits and their heels, their hair is done, and I wonder what kind of pain they have to endure when they go home, if any at all. So a battered woman to me is anybody, woman who endures any kind of abuse. Physical, psychological. And most times it's the people that we won't ever think it will be.

Originally, Jewel thought she had too much "wherewithal" to be a battered woman and that her experiences were not "bad" enough to qualify her in this way. After Jewel's fiancé threatened her daughter, she realized there was something wrong. She started talking to people about what she was going through, and they convinced her that her fiancé was abusive. After this, she left him and went to a shelter for battered women. Jewel said her understanding of a "battered woman" had changed and now she sees that abuse can be "psychological" as well as "physical." Her thoughts about

who might be a "battered woman" have broadened and she has come to recognize that battered women may be "people that we won't ever think it will be."

### Summary

In Chapters 5 and 6, I have examined the role of discourses in women's decisions to claim or reject the identities of "victim" and "battered woman." In the past several decades, numerous domestic violence discourses have arisen from social institutions such as the battered woman's movement, the media, the criminal justice system, and academia. While these discourses at times overlap and at times diverge, each offers its own unique representation of a victim of domestic violence. Thus, there are multiple ways to understand and interpret the identities of "victim" and "battered woman"; all of these are available discursive options for battered women to draw from in their attempts at self-construction and self-presentation (or "identity work"). The women I interviewed were introduced to these different discourses by a variety of means, including: friends and family; stays at battered women's shelters; books and other written materials; counseling and therapy; and involvement in the criminal justice system.

I have presented three culturally dominant ways of understanding the identity of "victim": viewing victims as culpable for the violence they experience; viewing them as experiencing a harm they couldn't control; and viewing them as passive, weak, and helpless. Similarly, there are multiple ways of understanding the identity of "battered woman": as "pure victims"; as powerless; and as enmeshed in a larger pattern of power and control. As I have demonstrated, there is some overlap between these discourses; viewing victims as passive, weak, and helpless, is very similar to



understanding battered women as powerless. Further, there are understandings of both "victim" and "battered woman" that focus on harm, abuse, or wrongdoing. However, as I have also shown, these identities are not identical.

The women I interviewed demonstrated an acute awareness of the multiple ways that both of these identities have been constructed and at times, their understanding of what it means to be a "victim" and a "battered woman" mirrored hegemonic discourses. The women appeared most likely to claim the identities of "victim" and/or "battered woman" to acknowledge they have been harmed, wronged, or hurt. There are numerous additional possible reasons that women may chose to structure their selves in this way. Holstein and Miller (1990) argue that assigning a person a "victim" status serves to absolve that person of responsibility, identify the source of a person's harm, specify a response and/or remedy, and account for failure. Indeed, for many of the women, claiming a "victim" or "battered woman" identity helped to make clear who was the abuser and who was the victim. And, as I will discuss in the next chapter, women recognized the importance of presenting as a "victim" and/or "battered woman" in order to receive services and assistance from the criminal justice system. Other women clearly claimed the identity of "victim" or "battered woman" to explain aspects of their *own* behavior that they knew others may view as problematic, such as ignoring "red flags" or staying with an abusive partner. Finally, as Loseke makes clear (2001), the "battered woman" narrative can be "lifesaving" as it "encourages women to leave life-threatening relationships" (p. 124). Thus, claiming a "battered woman" identity may also be a way for women to come to terms with the seriousness of their situations.



However, many of the women recognized that both "victim" and "battered woman" are stigmatized identities. While some mainstream discourses remove all responsibility or control from victims and battered women, they concurrently indicate weakness, passivity, helplessness, and powerlessness. The experiences of many of the women I interviewed were inconsistent with constructions of passivity and helpless; many of them believed they could (and did) do things to counter or even end the violence in their lives, like calling the police on their abusers, fighting back, or leaving the relationship. Attempting to demonstrate their agency while simultaneously demonstrating they had been unfairly harmed was perhaps the biggest struggle the women faced when attempting to represent themselves. A large number of women reported believing they had some level of control or responsibility in their abusive relationship, yet they had a great deal of difficulty expressing this belief. They wished to distinguish this idea from the notion that women are to blame for violence in their relationships—none of the women appeared to believe they deserved the violence or provoked it in any way. However, the limited cultural discourses available to them made this task tricky, if not impossible.

For the women that I interviewed, the identity of "battered woman" was less appealing than was the identity of "victim" as a means of structuring their selves. While nearly three-quarters of the women I interviewed claimed a "victim" identity, less than one-half of the women claimed the identity of "battered woman." One potential reason for this is that "victim" clearly has broader meaning than does "battered woman" and describes a wider range of situations. However, I believe there

are other processes at work here. Loseke (2001) argues that women may reject the "wife abuse" formula story as a way to make sense of their experiences because:

...[it] focuses exclusively on the experience of abuse; it leaves little space to include the complexities, indeterminacies, and situated nature of marital troubles. Furthermore, unless the abuse is experienced as extreme, there are questions about whether or not it is an example of morally intolerable "abuse" or of the more common—and less pejorative—cultural category of "normal violence." Still further, unless the partner can be constructed as a man with no redeeming qualities, it might be difficult to case him as an abuser who is nothing but evil. (pp. 122-123)

Indeed, the women I spoke with who saw themselves as victims but not battered women most often rejected the identity of "battered woman" if they did not see themselves as trapped in their relationships, and/or if they viewed their partner's abusive behavior as an isolated incident and not as part of an ongoing cycle of violence. The assignments of both a "victim" and "battered woman" identity represent claims about the world (Holstein and Miller, 1997) and arguably, the latter claim is a more loaded one. While a "victim" has been injured in some way—perhaps from a single action by another person—"battered woman" is descriptive of a woman's relational self. More is said about a woman's relationship if she is a "battered woman" than if she is a "victim"; thus, more is required of her (i.e. that she exit the relationship).

Not every woman who is abused in the context of an intimate partner relationship sees herself as a "victim" or a "battered woman." From an interactionist perspective, this makes sense, as social identities are not objective statuses—a woman is not a "victim" or a "battered woman" by virtue of the "facts" of what has happened to her (Holstein and Miller, 1997). Instead, these identities are created by discourses and are thus interpretations available for women to use in the process of self-

construction and self-representation (Gubrium and Holstein, 2001). As Fraser (1997) states: "people's social identities are complexes of meanings, networks of interpretation" and descriptions that are "drawn from the fund of interpretive possibilities available to agents in specific societies" (p. 152). Theorists and researchers have shown that the process of drawing from discourses to construct identity is often a complex and untidy practice (see, for example, Gubrium and Holstein, 2001). My examination of the identity work of women who have been abused by an intimate partner confirms this.

As Loseke (2001) argues, assigning meaning to the lived experience of troubles is complex because "in lived experience, troubles do not come to us with labels describing their names, meanings, seriousness, and so forth" (p. 108). Indeed, most of the women that I interviewed demonstrated an unwillingness to neatly categorize and label their experiences with one of these culturally dominant understandings. They alternately drew from, manipulated, and challenged existing hegemonic discourses. Thus, their understandings of themselves were not simply determined by a single discourse. This demonstrates two important findings: it shows the limited nature of current domestic violence discourses and it reveals the existence of agency in the process of identity construction for battered women.

As I have shown, battered women draw from the "fund of interpretive possibilities" (Fraser, 1997) surrounding women's victimization to make sense of their experiences, yet, as my research demonstrates, this fund is limited in many ways. Women attempted to use existing discourses to represent themselves and they found these discourses to be both enabling and constraining to the construction of

identity. The process of self-representation was, for some women, a struggle. At times they clearly had difficulty expressing themselves and their narratives displayed contradictions and inconsistencies; this demonstrates that current discourses do not always mesh with the women's interpretations of their situations and experiences. Loseke (2001) maintains that women's lived experiences "contradict or collide with" our dominant understandings of what it means to be a "victim" or "battered woman" and "this leads to stories that vary significantly from the institutionally preferred narrative" (p. 120). Further, she argues that instead of viewing abused women's resistance to mainstream narratives surrounding domestic violence as a sign of "individual psychopathology," perhaps we should examine the narratives themselves (p. 124). Indeed, my research demonstrates that abused women often find hegemonic narratives surrounding the identities of "battered woman" and "victim" to be inadequate means of understanding their selves and their lives.

To complicate matters, while these identities are narrow, limited, and not preferable to some of the women, the practicalities of certain social institutions necessitate the claiming (or at least presentation) of them. Researchers have demonstrated the importance of presenting oneself as an appropriate "battered woman" or "victim" in order to obtain sympathy and/or receive assistance from shelters, social service organizations, and the criminal justice system (Dunn, 2001; Holstein and Miller, 1997; Loseke, 1992). And, as Gubrium and Holstein (2001) remind us, "not everyone has access, or is subjected, to the same field of possibilities" in these various institutional discursive environments (p. 13). Women who are more privileged by virtue of their class and race may experience less pressure to "prove"

they are a worthy "battered woman" or "victim" and they may have less to lose if they cannot--or refuse to--do so. A poor woman who is attempting to escape an abusive relationship and find refuge has fewer options than a woman who has more money. While the woman with more money may be able to afford a hotel or travel to another city, the poor woman's only option may be a local battered women's shelter. Thus, it becomes more important for the poor woman to "present" as a "battered woman" in order to receive services at the shelter. Her survival becomes dependent on this identity. Further, as I will demonstrate in Chapter Seven, African American women may try hard *not* to present as a "battered woman" to prevent their partner's arrest and involvement in a racist criminal justice system.

Despite the fact that existing discourses are limited and make self-construction challenging for the women, *and* despite the fact that social institutions often demand particular self-presentations, the women I interviewed often resisted being pigeonholed or neatly labeled. Many refused to use one hegemonic discourse to make sense of their experiences. In their "identity work" they often pieced together parts of different discourses to create a narrative that fit with the way they wanted to perceive themselves. Ultimately, the identity they constructed and presented was of their own design and choosing. This illustrates that agency is involved in the creation of identity, even under institutional conditions that dictate ways in which people should be understood. The women I interviewed frequently disrupted and destabilized hegemonic domestic violence discourses, demonstrating that women's agency and resistance occur in varied, subtle, and often complex forms. This theme will be explored further in the next chapter.

## NOTES

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<sup>1</sup> This is similar to the theme, explored in Chapter Five, that victims have some degree of responsibility or control in their abusive relationships.

<sup>2</sup> Although this was far more common for the identity of "victim," indicating that "victim" is perhaps a more complex identity.



## CHAPTER SEVEN

### **"Just Another Number": Battered Women's Identity Work in the Criminal Justice System**

In the preceding chapters, I have discussed the genealogy of hegemonic domestic violence discourses and have demonstrated how these discourses are often central to the identity work of women abused by intimate partners. The criminal justice system is a place where domestic violence discourses—and identity work with them—become particularly important. As Sally Engle Merry (1995a) argues, not only does the law produce "cultural meanings and identities as an aspect of its power," but the criminal justice system also has the structural power to enforce these images and meanings (p. 15). She writes:

Courts, for example, provide performances in which problems are named and solutions determined. These performances include conversations in which the terms of the argument are established and penalties determined. The ability to structure this talk and to determine the relevant discourse within which an issue is framed—in other words, in which the reigning account of events is established—is an important facet of the power exercised by law.... (p. 15)

Thus, constructions surrounding both domestic violence and battered women that are formed by and through the criminal justice system are presented as legitimate actions of the state, and commonly become institutionalized. This means that the identity work of battered women involved with the criminal justice system becomes particularly salient, as women's claims of victimization (or lack thereof) take place within a specific institutional context. How actors in the criminal justice system treat a case—in other words, the determination of who is arrested, and the nature of punishment and/or rehabilitation—is inextricably connected to how these actors perceive the woman involved in the case. Most women who call the police and

"choose" to have the criminal justice system involved in their lives need some type of help or assistance. Consequently, these women need to present as legitimate and deserving victims of domestic violence. Dunn (2001) argues: "...a 'true' or 'worthy' victim meets the criteria held by relevant actors in the criminal justice system. They determine whether or not (1) a prosecutable crime has occurred, (2) the victim is credible, and (3) the victim needs and/or merits the services provided by the victim advocates" (p. 287).

Once again, we see that hegemonic discourses surrounding the "victim" and the "battered woman" are central to the processes of self-construction and interpretation in interactions between battered women and agents of the criminal justice system. As Spencer (2001) states, "dominant institutional discourses not only serve to articulate the prevailing set of accounts for constructing troubles, but provide staff members with related orienting questions, ways of issuing directives, and the means for challenging resistance from clients" (p. 159). The existence of multiple and sometimes contradictory discourses that influence the ways in which agents of the criminal justice system understand a "victim" and/or a "battered woman" may make women's identity work all the more challenging.

In this chapter, I demonstrate how hegemonic discourses shape and constrain women's experiences in the criminal justice system. Specifically, I explore women's identity work and their attempts at self-construction during their interactions both with the police who respond to domestic violence calls and with judges and attorneys during the prosecution process. There are multiple discourses that seemed to prove relevant to these processes: the discourses surrounding what it means to be a "victim"

and "battered woman" that I explored in Chapters 5 and 6; Baker's (1997) "dominant cultural script" that I discussed in Chapters 3 and 4;<sup>1</sup> and mandatory arrest and prosecution policies.<sup>2</sup> Again, I will demonstrate how these discourses are enabling and constraining, in both the ways that they influence agents of the criminal justice system's understandings of women who are abused by intimate partners, but also in the ways that they dictate how these women can and should behave. Finally, I will explore how women resist hegemonic discourses and thus, the institutional power of the criminal justice system, with varying degrees of success.

### **Identity Work in Interactions with Police**

For domestic violence victims (as with victims of most crimes) interactions with police officers often prove to be most pivotal of all interactions in the criminal justice system. These interactions potentially mark the "entry" stage into the criminal justice system; it is at this time that decisions are made about whether someone will be arrested and charges will be filed. However, presenting as a "true" victim can be difficult, for as I have shown, multiple institutional discourses surrounding victimization characterize the discursive environment of the criminal justice system. The implementation of mandatory arrest policies further complicates this process and has changed the stakes for women. Not only is it now more likely that a woman's partner may be arrested against her wishes, but women themselves face an increased risk of arrest. Prior to the implementation of mandatory arrest policies, if police officers decided a woman was not a true victim, they most commonly refused to arrest her partner (Schechter, 1982). Mandatory arrest policies, designed to alleviate this problem by removing discretion from the responding officers, require—or at least

strongly encourage—officers to arrest someone. This someone might be the man, regardless of the wishes of the woman, or it might be the woman herself. Indeed, research indicates that an increased number of women have been arrested for domestic violence after the introduction of mandatory arrest policies (Hirschel and Buzawa, 2002; Miller, 2001). Mandatory arrest policies were implemented in all of the jurisdictions in which the women I interviewed cases were based. This meant that the presentation of a particular self became vital for the women. In some situations, women needed to prove they were *not* real victims if they wanted to attempt to avoid the arrest of their partners, yet in other situations, women needed to demonstrate that they *were* the “true” victims in order to avoid their own arrest. Several women’s narratives demonstrate that they did both of these things simultaneously.

The women I interviewed who called the police themselves (as opposed to someone else calling) reported doing so for a wide variety of reasons: because they were fearful; because they were encouraged to do so by someone else; to get their partner help; to have their partner removed from the home; and to show their partner that the abuse was not acceptable. Some of the women were certain that they wanted their partners arrested. Presenting as a “true” victim was most important for these women. However, there were many factors that influenced whether or not police officers saw women as credible victims, including: a woman’s emotional state, the degree to which she had followed the “dominant cultural script,” how she compared to the “pure victim” image, and her social location.

### Emotional State

A woman’s emotional state when the police arrived appeared to be an

important factor determining the success women had in presenting as the "true" victim. Researchers have found that emotion management is important to the successful presentation of a victim identity for female victims of violence involved in the criminal justice system (Dunn, 2001; Konradi, 1999). Konradi (1999) discusses how rape victims in courtrooms often face contradictory expectations surrounding their emotional presentations, as the norms require "emotional suppression on the one hand (the rational witness) and evocation on the other (the traumatized rape victim)" (p. 56). My interviews demonstrate that a similar process occurs during battered women's interactions with the police. Around one-quarter of the women I interviewed believed that their emotional state influenced their credibility with the police in that women who were very upset were less likely to be taken seriously than women who were calm. For example, Julia, a 21 year-old Mexican American woman said of the police, "There have been times where they would go and treat me like a whiny female, I guess, because I'm crying and that." Robin described how on several occasions when the police came to her home because of her husband's violence, she was so upset that they took her to the psychiatric unit of the hospital and placed her on forced lock-down. She said that as a result of a childhood accident, when she is "forced into a trauma situation" she gets "very agitated and very upset." However, the police taking her away made her angry because she said that they were not addressing her husband's behavior. She then described another occasion when her husband threw her into a wall, repeatedly slapped her, and then left. She called the police shortly afterwards and had a better experience with them. She said:

And so I think too, the thing that helped [this time] was [that] I had had that thirty to forty-five minutes to calm down. I was very teary-eyed, but I wasn't hysterical.



And cops on an outward appearance aren't real clean in that area. They can't tell the difference between somebody who's hysterical for some other reason. They just... cops are sitting there and they're looking at things and my general impression is that they...don't know how to [read a situation and say], okay, this person is upset and is not responding well because she was just attacked by her spouse, her boyfriend or whatever.

This marked a more positive experience with the police for Robin, which she attributed to the fact that, on this occasion, she "wasn't hysterical." She said that the police are not able to see that women who are attacked are upset and may have difficulty responding to their questions.

Many of these women reported that their partners used the women's emotions as "proof" that they was crazy and therefore, less credible. For example, Gina, who was arrested, said she was crying and distraught when she talked to the police and had a hard time explaining herself. She contrasted her behavior with that of her husband, whom she described as "calm and cool and collected" while he was telling the police his story. She believed this influenced the police's decision that she was not as credible as her husband. Florence's husband, Jack, was also able to present a more "rational" emotional state to the police than she was when officers arrived at their house after a neighbor called them. While Florence wasn't arrested, the police did not arrest Jack, despite the fact that Florence was severely injured. Here is the exchange I had with Florence about this incident:

*Florence:*...he beat me up one night . . . and of course, you know, a head wound will bleed more than any other wound. But I had blood all over my T-shirt. I didn't call the police; the neighbors called the police. The police come to the door, Jack immediately, he's Mr. Calm, you know. And I'm hysterical; you know. I answer the door, and I'm hysterical. I've got blood all over me. You know, John's [in a chair], kicked back...with a beer in his hand, telling the cop, "You see what I put up with? Look at her." And I'm telling the cop, I'm saying, "Look at me!" you know? And the cop said, "Lady, if you don't shut up," he said, "I'm going to take you to jail." And I shut up and sat down. He never asked me what happened.



*Amy:* He only talked to Jack?

*Florence:* He only talked to Jack. And Jack said, "Well, she went berserk on me; look how she is. And I really didn't mean to hit her. I was just trying to get her away from me. She was jumping on me." [The cop asked Jack], "Would you like to press charges against her?" [Jack replied], "Nah, she's a good ole gal. She's just drunk...I'll just let her sleep it off."

The fact that Jack was much calmer and more rational than Florence led the officer to privilege Jack's story over Florence's (whose story the officer didn't even ask for).

Florence said she was "hysterical," (as any person reasonably would be after being physically assaulted). However, Jack used Florence's distress and hysteria to discredit her attempts to establish herself as a "real victim" and clearly the police officer bought the story. Jack was not arrested, despite the fact that Florence had visible (and quite extensive) head injuries.

#### "Dominant Cultural Script"

A woman's failure to follow Baker's (1997) "dominant cultural script" was another factor that appeared to influence police officers' opinions about whether or not she was a "true" victim. In other words, if police knew that a woman had previously experienced violence from her partner, but had not left the relationship nor had filed for or maintained an existing restraining order, police seemed less likely to take her request for assistance seriously. Many of the women that I interviewed reported believing that police treat women who have called the police on multiple occasions differently than women who have not. For example, Angela, a 37 year-old multiracial woman, told me that after the police had been to her house repeatedly because of her husband's violence, an officer said to her, "Well, why are you putting up with this kind of stuff? If you're gonna put up with him, if you're gonna see him or talk to him, don't bother calling us no (sic) more." Two women told me that the

police simply stopped responding to their calls and both women believed this was because they had called for help on multiple occasions.

Several of the women I interviewed who were arrested were told by police officers that they were being taken into custody precisely because they had called the police previously yet had not left their abusive partners. For example, one evening Heather called the police due to the violence of her then-boyfriend, Roger. However, she just wanted him to leave her house—she did not want him arrested because she was afraid of what he would do in retaliation. When the police arrived, she did not tell them that Roger had been violent, but told them she wanted him to leave and they escorted him from the property. Heather and Roger ended up getting back together and he moved in with her again. A week later they were driving home and Roger became extremely verbally abusive, kicked her out of the car, and drove away. She was very upset and was picked up by a passing motorist. Heather was afraid that Roger was going to go steal things from her house, as this was a pattern with him. At the urging of the motorist who picked her up, she called the police.

Three police officers responded to Heather's call, pulled Roger over on the highway, and found that he had stolen some of her books. They met her at her house, with Roger. Heather described what happened:

And I was just hysterical, crying, crying and crying, but then they started talking to Roger, and they're like "why did you dump her in the canyon?" And Roger said well, "she hit me in the car. She hit me a lot." And I didn't hit him in the car. If I had, he would have clobbered me, he would have killed me. And it was a lie, but they believed him. And since I was the one saying don't arrest him, don't do anything, they thought I was the guilty party. But really I didn't want Roger arrested because he, number one, he'd come back and kill me; number two, he had no money to bail bond out of jail, and guess who would feel so guilty? I'd bond him out because I'm that way. So I didn't want...I just wanted to get the stolen

stuff and tell Frank to go to California like he had planned. And they didn't do that. They arrested me.

I asked Heather if she spoke to any of the responding officers and she replied that she talked to one of them: "Yeah, from the start [one of them] came up to me and he treated me like dirt. And...I said [that] I [had] called the cops a week ago on Frank. And he goes, 'yeah, yeah and that's why you're getting arrested too. Because you called a week ago and you couldn't stay away from him, could you?'" Heather was apparently arrested for several reasons. Not only did Roger lie to the police and say she hit him, but she also did not want Roger arrested; she believed these things made her look guilty to the police. Further, one of the officers also told her she was arrested for her failure to "stay away" from Roger, or for her violation of the cultural script. All of these things seemingly diminished Heather's credibility with the police and resulted in them not viewing her as a "true" victim.

Dunn (2001) states that "law enforcers, and the generalized juries to whom they mentally refer, expect victims to be 'innocent' (to bear no responsibility for their own victimization) yet proactive (to take responsibility for their own safety)" (p. 298). A woman's "going back" to her partner violates these expectations and makes it harder for her to present her self as a legitimate victim to the police. As a result, police sometimes stop providing assistance to these women. This confirms research by Stephens and Sinden (2000), who found that battered women who had multiple encounters with law enforcement officers were more likely to report that they had negative experiences with officers than battered women who had a single police encounter. The arrest of women in my study who failed to follow the cultural script not only indicates a belief by the police that these women are not "true" victims, but

also may represent the “punishment” of women who do not follow the “correct” culturally proscribed steps to exit the abusive relationship.

#### “Pure victim” Image

Some women who did not have marks on them had a difficult time getting the police to take them seriously. These women were most at risk of being arrested themselves. Over one-third of the women I interviewed were arrested when the police responded to a domestic violence call; two of these were dual arrests (both the woman and her partner was arrested). Additionally, two of the women were arrested on multiple occasions. All of the women believed they were the “real” victims in their cases and thus, all believed they were arrested wrongly. Apparently these women were unsuccessful in their attempts at presenting a legitimate victim identity. Their lack of success appeared to be largely influenced by how well the woman fit into the “pure victim” image—clearly this discourse is instrumental in police officers’ determination of who is a real “victim” or “battered woman.” Once again, to review, the “pure victim” discourse depicts battered women in the following ways: (1) as wives who adhere to traditional gender roles and are economically and emotionally dependent on their abusers; (2) as passive and not themselves violent; (3) as experiencing frequent and severe violence; and (4) as extremely fearful of their abuser. Criteria #2 and #3 appeared to be most salient to police officers’ decisions that a woman was not a legitimate victim.

Some of the women who were arrested admitted to the police that they in some way used violence, although the women reported it was done out of frustration, anger, and/or in self-defense. For example, recall Gina, the woman who threw fruit at her

husband, Joe, after she became frustrated with him when he belittled her in front of their children. Gina tried to pull Joe to the front door and they had a physical altercation where he grabbed her by the wrists and she scratched him in the face. Joe then called the police. When two officers arrived, Gina and Joe were separated; one officer listened to her story and another listened to his. Gina described how she tried to demonstrate to the officer listening to her that she was the victim in this situation:

I kept telling her, you know, I told her, 12 years ago I lived in the [battered women's shelter] for a month and [Joe] was charged with reckless endangerment and almost ran me over with a car. I go, "there's records on that—you need to find those records because he has a history of doing this to me" and I said, I said, "he was hurting my wrist." But I didn't explain that good enough...that like, like I was in self-defense...that's why I hurt his...I scratched him. And I don't think I was really clear about that...

Gina offers Joe's past arrest and her stay at the local battered women's shelter as "proof" that she is the real victim here. She realizes that the scratch on Joe's wrist damages her attempts to demonstrate this and she makes an effort to explain that she scratched him in self-defense. However, the two officers then questioned Gina and Joe's 10 year-old son, who witnessed the incident. The police went outside to confer and when they came back inside, they told her that not only did her son's story match her husband's story, but they could find no records of her husband's prior arrest. They then arrested her.

Miller (2001) interviewed criminal justice professionals and service providers who deal directly with women arrested for domestic violence charges. Many of them believed that women often use violence for different reasons than do men; most often, they use it out of frustration or in self-defense. Further, they believed that police officers often do not take the time to carefully investigate incidents and are not



always trained to take into account the power dynamics in which domestic violence most often occurs. Miller argues that because police officers are now directed to make arrests, "rather than ignoring women's behavior as they had in the past, the police focus on the violence itself and not the context in which it occurs" (p. 1351). Thus, the police simply arrest the person they think is the "abuser." As I discussed in Chapter Four, because when police officers respond to a domestic violence call their investigations usually focuses on—as one prosecutor described it—"one single event occurring in a single instance," the context in which this event occurred is not taken into account. Miller states that there is a "need for police to thoroughly investigate the context of the situation, not just rely on he said/she said commentary from the combatants or automatically accord greater credibility to the authoritative voice of men" (p. 1356). The officers in Gina's case apparently decided that her use of violence was not out of self-defense. In spite of her attempts to present herself as the "victim," the police did not see her in this light and she was arrested. Clearly, when a woman does not fit into the "pure victim" construction—when she is not visibly injured and/or she reports using violence herself—the police are less likely to view her as a legitimate victim.

According to Miller (2001), evidence suggests that many abusive men are learning how to use the criminal justice system to their advantage. The criminal justice professionals and service providers that she interviewed reported either directly observing men manipulate the criminal justice system or hearing about this from victims they work with. Manipulative behaviors included: "men self-inflicting wounds so that police would view the woman as assaultive and dangerous, men being



the first ones to call 911 to proactively define the situation, and men capitalizing on the outward calm they display once police arrive (his serenity highlights the hysterical woman)" (p. 1354). Indeed, many of the women I interviewed reported that their partners engaged in such behavior and often, this limited women's ability to successfully present a credible victim identity to law enforcement officers. As a result, not only did police officers in some instances fail to arrest women's partners, but sometimes the women themselves were arrested.

This is not to say that women are always innocent and free of all responsibility. Indeed, as I demonstrated in Chapter Five, many of the women I interviewed would not characterize themselves in this way. Research has shown that women do, at times, use violence in intimate partner relationships (see, for example, Renzetti, 1999). However, as Dasgupta (2002) found in her review of literature on women's use of violence, "the majority of research findings report that women who use violence are battered themselves and use physical aggression to escape or stop this abuse" (p.1378). Further, research indicates that women are more psychologically and physically injured by intimate partner violence than are men and are at greater risk of being stalked and killed upon leaving a violent relationship (Saunders, 2002). Again, the majority of researchers stress that when examining differences between men's and women's use of violence, understanding the social context in which the violence occurs and the power dynamics involved is essential (Miller, 2001; Osthoff, 2002; Saunders, 2002).

Interestingly, some of the women who were arrested reported that at least one of the responding officers either seemed hesitant to arrest them or directly stated at

some point that they probably should not have been arrested. This happened to five of the eleven of the women I interviewed who were arrested. Gina described how when she was arrested, one of the two responding officers was much kinder to her than the other, trying to make sure her neighbors did not see her get into the police car and asking about her wellbeing during her transport to the jail. Later, her lawyer told her that this police officer had contacted the district attorney on two separate occasions to say that he did not feel good about the arrest and thought that they had arrested the wrong person. A similar thing happened to Heather. After she was arrested, while she was sitting in the police car, one of the responding officers told her that he believed her story and thought she was innocent, but he could not do anything about it because the arresting officer had more authority than he did. This illustrates that a woman's attempt to demonstrate that she was victimized may be assessed differently by each police officer who responds to the call. Evidently, officers do not always agree on who is the "true" victim. According to the women's accounts of their interactions with law enforcement officers, these officers appeared to draw from different discourses in their attempts at deciding who is a "real" victim and/or a "battered woman."

Not all of the women that I interviewed wanted their partners to be arrested. Some of the women did not want the police involved in their situations at all but had little choice because someone else had called the police, like a family member or neighbor. Other women called the police themselves but were not aware of mandatory arrest policies; thus, they did not know that if the police responded to a domestic violence call and determined that abuse had occurred, an arrest was

mandated. Still other women knew if the police had evidence that a man was violent, they would likely arrest him; thus, these women knew they had to hide any proof and/or lie about what happened to avoid their partner's arrest. The identity work of women in all of these categories often involved trying to convince police officers that they were *not* "true" victims in order to avoid the arrest of their partner. For example, Julia, a 21 year-old Mexican American woman, told me that she had to call the police multiple times because of her boyfriend Marc's physical and verbal abuse. However, she did not want Marc to be arrested so when the police would arrive she would not tell them about his violence; she would simply tell them she wanted him removed from her house. She said the following:

And it's, like, it was so dumb, because every time the police would come, it would just be, like [the officers would say], "You know, you guys need to calm down. [Marc's] going to leave for a little bit." But he would come right back, and we would just start right up. And it's, like, "Why don't I tell the police that he hit me? He'll go to jail." I mean, there's so many times that I wish I had.

Julia knew that if she told the police that Marc had hit her he would have been arrested. At the time of our interview, she wished she had done this. However, when the police would come to her house she told me she did not want Marc to get in trouble so she would lie. The only time he was actually arrested was when he had hit her in the head with a soup can and she was bleeding. She said she "had to tell the police then" since they saw her injury. This instance was the only time that Julia—because of her visible injury—knew she would be unable to convince the police that she was not a victim in order to keep Marc from being arrested.

Women attempting to avoid their partner's arrest by convincing police officers that they were not "true" victims needed to be cautious—trying too hard to avoid the

arrest of their partner by showing they were not victimized sometimes put them at greater risk of being seen as the abuser. Susan, a 30 year-old white woman, called the police on her husband, Robert, after an episode which she described as the only incident of violence in their relationship. They had gotten into a verbal altercation one evening over a mess Robert had made while he was installing insulation into their house and his refusal to clean it up. Robert tried to leave the house and Susan blocked his path, kicked him in the leg, and took his keys. Robert attempted to grab the keys from her and pushed her while she was holding their 9 month-old daughter. Susan fell on the bed, hitting and cutting her head on a curtain rod (the baby was unhurt). Susan then called the police. She said that after this, Robert immediately calmed down and started shaving because he knew he was going to go to jail. She described their interaction: "And I was like, I know I started really kind of freaking out, [saying] like 'What do you mean they're going to arrest you? I didn't really want them to arrest you. I just want this to stop.' And he's like, 'I'm telling you, Susan, they'll arrest me. They'll...they have to arrest someone if they come.'"

When the police arrived, she told them what happened and showed them the cut on her head. She said that while she did not want Robert arrested, she also did not want to lie to the police. Robert also admitted pushing Susan, so the police decided to arrest him. However, Susan did her best to convince the police that the incident was not a "big deal." She said she had no control over what the police did and this was upsetting to her:

I mean I just wish they would have talked to me and him and realized after talking to me...[I was saying to the police officer] "This isn't a big deal, this thing on my head. It was an accident. I was just as much to blame by yelling and keeping [Robert] from going, taking his keys, cussing at him, provoking him basically.

He's not like this, he's never done this before, [you need] to trust me that I'm not lying to you. You see my daughter, she's perfectly fine. Yeah, she's a little upset, but look, you see what happened, you see the insulation all over the place, that he was just doing this and it caused this stuff." And that I told him I'm gonna go to my brother-in-law's house. I told them that. I said I'm gonna go to his brother's house to go spend the night, so you know, I'm fine.

Susan tried to convince the police that she was not a "true" victim in order to prevent Robert's arrest. She offered a great deal of "evidence" as proof of this: she said the incident was an accident; she claimed at least partial responsibility for their altercation; she said that Robert has never been violent before; she assured the officer that her daughter was fine; she pointed to the condition of the house that led to their argument; and she told the officer that she was going to leave the house. However, she also recognized that her framing of the incident as partially her fault might have resulted in her own arrest. She said:

I told them that I kicked him too, which thank God they kind of dismissed that or they said I kicked "at him" because they could have arrested me, too. And they knew that I cussed at him and everything and that I was yelling, but they overlooked that, I guess, because I've heard that they could even have arrested me for that. And I'm like "Whoa!" So obviously they just saw that, you know, I think they sympathized with me being a mom to this baby and everything and that I was the one with the cut on my head and all that and I'm the one that called, so they arrested him. And he didn't say that I'd hurt him in any way or try to change that.

In an attempt to prove to the police officers that she wasn't a "real" victim, Susan told them that she "yelled" and "cussed" at Robert and that she kicked him. However, by doing this, she risked constructing herself as abusive, which would provide the police with grounds to arrest her. She said, though, that because she was a mom, was the injured person, and was the one who called the police, the officers "sympathized" with her and she avoided her own arrest.



### Social Location

Poorer women and women of color sometimes had a more difficult time in their identity work with law enforcement officers. There are several reasons for this. First, as I discussed in Chapter Six, women who are less socially privileged may have more to lose if they are not able to demonstrate that they are a worthy "battered woman" or "victim" because their options for assistance are often limited. Secondly, dominant constructions of battered women and other female victims often reflect traditional ideas of femininity (Loseke 1992; Lamb 1999) and, thus, predominantly describe white, middle-class, passive, and "moral" women (Crenshaw, 1994; Kanuha, 1996). As Kanuha (1996) argues, "the battered woman as 'the bad' woman who is poor, or drug addicted, or a racial/ethnic minority, or all of these" was not part of the original cultural construction of who was a "battered woman" (p. 42). Thus, police officers may have a harder time seeing women in these categories as potential battered women. Further, officers may hold stereotypical beliefs about women of color and/or poorer women that shape their interactions and responses to these women.

For example, Angela told me that the building she lived in used to be a crack house and this seemed to influence police officers' attitudes toward her. An officer told her, "I see what kind of a place this is." Angela said the police officers seemed to expect that someone living in that building would have trouble. She said, "Their attitude was, 'you ain't nothing but slime. You're nothing but slime,'...like, 'you're nothing because you're doing this, you're allowing [your husband's violence] to happen. You are nothing.'" Angela believed that because she lived in a poor



neighborhood, in a building that the police associated with drugs, they treated her badly and blamed her for her husband's abusive behavior. Similarly, when Tiffany, a 28 year-old African American woman went to the police station to await transfer to a battered woman's shelter, she had a black eye, a split lip, and missing patches of hair. An officer commented to her, "I can just imagine what the other person looked like," reflecting his belief that Tiffany must also have been violent. She described herself as a "big girl," as she was almost 6 feet tall and weighed 290 pounds. She believed this influenced the officer's comments: "I think...I looked like an intimidating person, you know what I mean? My size, my weight...it's hard for anybody to believe that I would just let someone hit on me." Tiffany did not fit into the officer's conception of what a "battered woman" looked like due to her size and, quite possibly, her race. He thus assumed that she must have been a mutual participant in any episodes of violence she experienced. Both Angela and Tiffany, because they apparently violated police officers' expectations about who is a "battered woman," had a difficult time presenting themselves as a worthy or legitimate victims. For Angela, this resulted in diminished assistance from the police officers who responded to her call.

A final factor that made identity work more difficult for women of color is that in communities of color, there is often a mistrust of the criminal justice system that is perceived as hostile and racist (Crenshaw, 1994; Richie 1996). Women of color may not want the criminal justice system involved in their abusive relationships in order to protect their partners from entering the system. Vicki, a 25 year-old African American woman I interviewed, told me of a situation where she believed the

police wrongly arrested her husband, Geoffrey, and beat him up in the process. Vicki was separated from Geoffrey, who had a history of violent behavior. When he came to her house one evening and began yelling at her while she was on the phone with her sister, her sister called the police. In the meantime, Geoffrey had picked up a knife that was on the table. Vicki said she did not feel threatened by Geoffrey, but she took the knife away from him "out of instinct"; Geoffrey was cut in the process. When the police officers arrived Geoffrey was attempting to leave and, in Vicki's words, they "jumped him and beat him." This upset Vicki immensely. She said she tried to tell the police officers that Geoffrey did not attempt to use the knife against her. However, they did not believe her and asked her why she took the knife from Geoffrey if she did not feel threatened. The police arrested Geoffrey, despite the attempts made by Vicki to change the police officers' beliefs that she was victimized. Vicki thought the police treated Geoffrey the way they did because he was a black man and they assumed that he was some kind of "violent gangster." She said that she would have no problem having the police arrest him—in fact she would want them to—if he had actually done something that she believed warranted this (she had called the police herself on a prior occasion when Geoffrey was violent). However, in this situation, Vicki did not believe she was a victim. In fact, she believed Geoffrey was the victim since he was the one who was cut and the police made him sit for an hour out on the grass, handcuffed and bleeding.

Vicki's experience and her interpretation of the police officers' actions led her to the conclusion that she would not want the police involved in her relationship again, as she did not trust them. Indeed, battered women of color may be less likely

to use the dominant cultural script as they may not view calling the police as a sound option. For example, Darla, a 36 year-old African American woman, stated that she did not want to call the police on her abusive boyfriend, Eddie (who was also African American), out of respect for Eddie's mother: it was the first time in quite a while that neither Eddie nor his brothers were incarcerated and Darla knew Eddie's mother was glad to have all of her sons around. As Darla's case illustrates, given that African American men are disproportionately imprisoned by a criminal justice system that some have argued is racist (Tonry, 1995), battered African American women may be hesitant to present themselves as "real" victims and follow the culturally prescribed mandate to call the police on an abuser, in order to prevent their partner's involvement in this system.

Finally, it should be noted that not all underprivileged women that I interviewed who were hesitant to call the police were treated poorly when they did. Daisy, the African American woman who experienced a violent physical and sexual assault from a man she used to date, said that although she asked someone to call the police after the assault, she did not think anyone in the criminal justice system would believe her. When I asked her why, she replied, "Here I was homeless, no job, down there with the scrounges of the earth." She said she was worried that the police would assume that because she was in "such a run-down, seedy hotel" that she must have "asked for" the attack. She also said that usually the police do not take "black-on-black" crime very seriously (her assailant was also African American). However, Daisy said that the detective who responded to the scene was very caring and supportive and believed her. She said that everyone in the criminal justice system

with whom she interacted was "very, very supportive" and that they literally saved her life. She told me that this positive experience completely changed her view of the criminal justice system. Daisy was aware of the fact that as a woman of color who was poor and homeless, she risked not being taken seriously by the police officers who investigated the crime against her. However, for her, this was not the case. She was immediately regarded as a "real" victim and was pleased with the services she received.

Hegemonic domestic violence discourses were highly influential in shaping women's interactions with police officers. Police officers appeared to frequently rely on dominant constructions of both victims and battered women when making their decisions about what to do and who to arrest when they responded to domestic violence calls. These constructions were also central to women's identity work and their attempts at influencing police officers' decisions. Sometimes women embraced dominant constructions in their interactions with the police and other times they actively resisted them. However, because of both mandatory arrest policies and the police officers' ultimate authority in determining what happened and who was arrested, women's identity work was sometimes fruitless. I will now turn to a discussion of how similar processes occur during the prosecution process.

### **Identity Work in the Courts**

Identity work seemed to be somewhat less relevant during the prosecution process for the women I interviewed. This is primarily because "no-drop" prosecution policies were in place in all of the jurisdictions in which the women's court cases were centered. According to this policy, theoretically, if a person is

arrested on domestic violence charges, he or she is automatically prosecuted by the state. Thus, a woman did not have much control over whether or not the case against her abuser (or herself) was dropped. Whereas identity work is very important to demonstrate who is the abuser and who is the victim (and who is neither) when police first respond to a call, when the case is turned over to the courts, these decisions have already been made. Nevertheless, while identity work is less relevant during the prosecution process does not mean it completely lacks significance.

As I demonstrated in Chapter Four, prosecutors often are forced to drop and reduce charges if there is not enough evidence to proceed with criminal cases. Further, judges have leeway in the type of sentences that they bestow. Thus, prosecution and sentencing are not always automatic. Given this, women who want their abusers prosecuted may do whatever they can to prevent the dropping of charges by attempting to prove they were victimized; further, these women may wish for a particular sentencing for their abuser (i.e. jail versus counseling or vice versa) and attempt to present themselves and their situations in a way to ensure their desired outcome. Likewise, women who do not want their abusers prosecuted may do what they can to encourage the dropping of charges, such as failing to cooperate with the prosecution process. Finally, a woman who believes she was wrongly arrested and wants the charges dropped against her may try to convince the court of her innocence. These behaviors are reflective of women's attempts to present particular selves in order to influence the outcomes of their cases. However, as I will show, the women's attempts at self-presentation were often thwarted by the often constraining and coercive nature of the criminal justice system. There were two major problems that

women faced: not being given an opportunity to be heard; and not having any control over the prosecution process.

#### "I Felt Like Just Another Number": The Loss of the Specific

The biggest problem that women faced in their presentation of selves was that many of them believed that the criminal justice system does not care about the specifics of each woman's individual case. Many women were given little opportunity to tell their stories (particularly women who were arrested). More than a few women described not having much (or any) opportunity to speak with the attorneys who were representing them. Some women reported that they did speak to the prosecutor but they had to take responsibility for initiating the contact, while other women were not able to speak to the prosecutor at all. Tricia, a 38 year-old white woman who wanted her abusive ex-husband prosecuted, said the following: "Getting a hold of [the DA's office], if something would come up, was almost impossible. [I was] leaving voice mail messages all the time, and he would call me back sometimes, but most of the time I'd end up talking to his assistant." Tricia said that the contact she had with the DA was always the result of her efforts: "If I didn't pursue it then I was left in the dark."

A lack of contact with their attorneys led some women to believe they did not receive adequate representation. These women were upset that they were not able to tell their side of the story. This was particularly true for women who believed they were wrongly arrested—they had little or no chance to demonstrate that they were really victims in the situation. Beth and her ex-fiancé, George, were both arrested on domestic violence charges. One evening she had agreed to meet with him, despite the



fact that there was a no-contact order placed on them (George had been arrested several times previously on similar charges). They went out to dinner and afterwards, he took her back to his house and dragged her out of the truck (she did not want to go inside). He wanted to have sex with her against her wishes and ended up physically attacking her. She pushed him several times in self-defense. George called the police—Beth said he had learned that if he was the caller he was less likely to be arrested—and when the officers arrived, Beth admitted that she shoved George. Despite the fact that Beth had multiple bruises and George had no visible injuries, the police arrested both of them.

Beth attempted to contact the district attorney on multiple occasions before the pretrial conference; however, the DA never returned her calls. She described what happened at the pretrial conference:

[The DA] went over to George and came back and said [George is] not pleading guilty and if I were you, I would take a deferred sentence...He did not ask me if I thought I was innocent or if I was hurt...he didn't ask me anything. He just simply said to me if I were you, this is what I would do. And he said, "Plead guilty to this." And I said, "Well, why is [George] pleading not guilty?" He said, "Don't worry about him, worry about yourself. This is what I would do if I were you. This is the best offer you're gonna get."

Beth ended up pleading guilty to the charges against her and told me that she felt coerced into doing so. She was very upset about all of this. Beth believed that her attorney's failure to listen to her and find out what happened made it impossible for her to present her innocence. She stated, "I don't even know if he read the police report because the [it] refers to me as the victim throughout the thing. Why wouldn't he [ask me], 'Do you think you're guilty?'" Beth told me that the DA did not even know about George's violent history (his previous arrests were in a different county).

She said, "I felt like just another number...I was just not an individual case at all. That's why [the DA] presented the information the way he did." Beth was unsuccessful at presenting as a "real" victim to the attorney because he did not give her a chance to explain what happened. As a result of her guilty plea, she had to take classes designed for abusers. She told me, "[I] don't want to be treated this way. I am a victim in this case. I have been a victim from the very beginning..." Unfortunately, however, Beth's arrest led to the district attorney automatically seeing her as a perpetrator and she was not given the opportunity to demonstrate to him otherwise.

#### "I'm The Victim Here!": Lacking Control

The majority of women I interviewed also reported having little control over the prosecution process. In all of the jurisdictions in which the women's cases were processed, an arrest for domestic violence meant a no-contact order was automatically placed on the parties involved.<sup>3</sup> Several women were very unhappy about this. For example, Mary's boyfriend beat her up—so badly that her entire face was bruised and one of her eyes was swollen shut—and a bystander called the police. Her boyfriend was arrested and they were not allowed to have any communication with each other. When I asked her how she felt about this, she said the following:

This is what I think is wrong. I totally believe in a regular restraining order, you know, like if you want [to get one], you do that yourself...I know they do these mandatory things to protect the person and this and that. Well, I do understand that in a way, but I think it's very unfair for.....I didn't even get to speak my piece. I wasn't even allowed to come into court and say what I thought, and what I felt, and what I wanted. The judge just automatically sent this [no-contact order] and...because of this one incident, which was a bad incident, I'm not saying that.....but just, because of that, telling us that we can't see each other again and we can't be together again.

Mary acknowledged that the incident leading to her boyfriend's arrest was "bad"; she did not try to deny that she was victimized. However, despite this, she was unhappy with the automatic no-contact order and she did not want to be prohibited from seeing or communicating with her boyfriend. She wanted a chance to speak to the judge and have a say in the matter.

Susan, who had tried hard to convince the police that she was not a victim and that her husband, Robert, was not an abuser, faced similar problems. She, too, was very upset about the no-contact order that prohibited communication between her and Robert. Susan wanted the charges dropped altogether, but when she realized that this was not possible, she focused her energies on getting the no-contact order lifted. She was told that it could be months before the final disposition of the case and thus, if the no-contact order was not lifted, she would not be able to communicate with Robert for this entire time. She said that she wrote letters to the judge, made numerous phone calls, and went to the court on three separate occasions to fill out paperwork requesting the order be lifted. She described the process:

I kept saying, "Look, you know what, this is worse for Robert to not be able to come home and not be able to be with his family, with his daughter. With the no contact thing, it's actually worse. I can't talk to him...this [was] just a one-time thing, you're not listening to me. It seems like you're putting me lumped in with all these other people." I'm telling you, that's what I was upset about actually. And finally they listened to me and they had the social worker come talk to me and they realized they could lift it, so they did. I guess that's pretty unusual.

Susan believed the no-contact order made things much worse for her family. She did not see herself as a victim or see Robert as abusive; thus, she believed that the no-contact order was unnecessary. Further, she felt like she was "lumped together" with

other battered women and this upset her. With a lot of work and effort, she was finally able to convince the court to lift the no-contact order and Robert came home.

Many women also believed that they had no control over the outcome of their partners' cases. Some women wanted their partners and ex-partners to "get help" and receive counseling or treatment for alcohol or drug abuse. For example, Beth did not want her ex-fiancé, George, to go to jail, as she was worried about the fact that he was financially supporting four children (none of them hers). Further, Beth believed the source of George's problems and his violent behavior was his drug addiction, telling me, "I truly believe that if he was not on drugs, that nothing would have escalated this way. You know. I knew a whole different man the first five or six months that I knew him." She told me how she repeatedly called the DA to convince him to try to get drug treatment for George instead of jail time, stating, "He's not gonna get the drug help that he needs sitting in prison, you know." The DA told her he would do what he could, but he believed that George's propensity towards violating his probation would likely ensure jail time.

Other women specifically wanted jail time for their abusers. These women attempted to demonstrate the severity of their victimization in order to convince the courts that punishment of their abusers was warranted. Tricia's husband beat her up repeatedly throughout their seventeen year relationship. He was arrested on multiple occasions but never served any time in jail. When I asked Tricia why she went to court to testify against her ex-husband during the last case against him, she replied, "I went to court because I wanted to tell the judge, I wanted them to know, what a horrible person he was. You know, I wanted them to know both sides of the story.

He's very manipulative, very...he could lie his way through anything. So I wanted them to hear the other side of the story." However, Tricia said she was never given a chance to talk to the judge and that everything was decided without her input. Her ex-husband was not sentenced to jail, but was given probation and had to take anger-management classes. When I asked her about changes she would like see in the way the criminal justice system handles domestic violence, she said this:

I would like to see more support from the district attorneys, for the women that can't afford an attorney, from the victim's advocates, spend more time with us. The judges, for God's sake, let us talk when we got to court! I wanted to talk, but I never got to say a word. He would get up there, say what he had to say, and boom, another continuance. It's like, wait a minute! Why am I not allowed.....and the times I did talk, I would say what happen, he'd tell his side of the story, and boom, he'd go free...The judges need to let the victims speak. You know, and, take into consideration the prior history of the perpetrator. You know, please, do something, don't just continue to let him go!

Tricia was upset that many times when she went to court, she was not given the opportunity to speak. Further, she believed the judge did not take into account her husband's criminal record. For Tricia, these things contributed to her husband avoiding any serious jail time, which angered her.

Beth and Tricia, along with many of the other women I interviewed, attempted to present their stories and selves to the courts in ways that would facilitate outcomes that they desired. Some women drew from dominant constructions of the "battered woman" or the "victim" in their attempts to do this. For example, Tricia wanted to show the courts that she was a legitimate victim and that her ex-husband was "manipulative," a "horrible person," and clearly at fault. However, Beth chose to frame her victimization from her ex-fiance, George, as resulting from his drug addiction, in an attempt to get him help and avoid his going to jail. Both women had



different ways of making sense of their experiences with violence, and both wanted different outcomes from the prosecution process. However, neither Tricia nor Beth had much, if any, power to impact the outcomes of their cases, given the way the criminal justice system is structured.

Finally, some women were upset at their lack of control over the length of the prosecution process. Often, it took months before the final disposition of a case.

Some women were assigned a new DA midway through the case. Other women told me stories about their partners' lawyers filing for multiple continuances, dragging their cases out for up to a year. All of these proved frustrating. For example, Tricia, who reported having to go to court "many times" during the prosecution of her ex-husband, said the following:

I...I didn't feel like I had good representation. Every time that [my ex-husband] would get a continuance, I would ask [the DA], why does this keep happening? Why can't we go up there and say blah, blah, blah, this is what happened and get this over with! Why? And they'd say, "well, his attorney this and his attorney that..." But [I was saying], "why aren't you guys defending me? I mean, I'm the victim here! Hello?"

Tricia did not understand why the court repeatedly allowed her ex-husband's attorney to file for multiple continuances. She went to court many times, despite feeling afraid to face her ex-husband who had previously threatened to kill her. She told me that she felt like she lacked support from the criminal justice system. This was frustrating to her, and she attempted to use her victim status ("I mean, I'm the victim here!") to "call forth a remedy" to the situation (Holstein and Miller, 1997) and communicate her right to adequate defense.

Robin was also upset about how long it took for her husband's case to move through the system; at the time of our interview, the case had yet to close. The arrest



was her husband's second for domestic violence, and she said that at first, she wanted him to do "the maximum amount of jail time." She submitted a five page "impact statement" detailing her experiences with her husband's violence during the five years prior to his arrest. However, over the course of the months following this, Robin became frustrated with how long the case was taking to move through the system and she changed her mind about wanting to cooperate with the prosecution process. She explained:

It seems like once my husband got into the system, the system was very interested in quote unquote protecting his rights and they set up all of these court dates that really, just from my viewpoint, unnecessarily dragged this whole thing out. We're looking at something that happened in November and it may be June or July--if it does to go trial--before it's even gonna hit the courts. And to me, that is not quick justice. To me...my husband is out there doing whatever. He's working, he's going to school; his life is not affected. Realistically the amount of time, even if he was found guilty by a jury, the amount of jail time he might get is gonna be shorter than what amount of time passes for this whole court thing to happen. And that doesn't make any sense to me...I'm gonna be drug through the mud, you know, this, that and the other thing. It's not worth it. This whole thing has not been worth it to me. It's caused more pain and more stress than it has alleviated....I mean...this should be able to be taken care of within two or three months, not nine or ten. That's ridiculous. And the reason the courts are backed up is because they're so interested in protecting the rights of the perpetrator then the victim's rights, which one of the rights to a victim is for a speedy conclusion. I'm sorry. Nine to ten months is not a speedy conclusion.

Robin was ready and willing to testify against her husband and participate in his prosecution when he was first arrested. In fact, she wanted him to be sentenced to jail for what he did to her. However, the process was taking so long that she became frustrated and withdrew her support, declaring, "It's not worth it." Robin believed that the criminal justice system is more concerned with protecting the rights of the offender than the rights of the victim. This led her to conclude that the system does not care about what happens to the victim in domestic violence cases. She said:

"I've really felt like honestly nobody cares about what happens to me in all of this. So maybe I don't matter. I guess that's the major thing that's been coming up. And the only thing [that] matters is what the DA, what they want: win the case."

It is possible that Robin's resistance would be read by members of the criminal justice system as proof that she wanted to reconcile with her husband. As we have seen, women who do not cooperate with the prosecution of their abuser (and who do not follow the "cultural script") are frequently viewed with suspicion, their lack of cooperation viewed as "proof" of their passivity, ignorance, lack of self-esteem, emotional connection to their abuser, and/or rebellion. As Wittner (1998) found in her study of the happenings in a domestic violence court, "Immersed in the logic of legal discourse and in professional concerns with winnable cases, admissible evidence, and compliant witnesses, lawyers and court workers rarely contemplated the drawbacks involved in using the law as they prescribed" (p. 89). Indeed, as Robin demonstrates, women's reasons for not cooperating with the prosecution process are complex and may be more illustrative of problems with the criminal justice system than shortcomings of particular women.

#### Agency and Resistance

Some women that I interviewed *were* able to successfully use the criminal justice system to achieve their needs. In fact, several women expressed a belief that women in abusive relationships should always cooperate with the system in the arrest and prosecution of their abusers. As one woman stated, "The system, the justice system, they can't really do anything if you're not helping them..." For women who received the support and assistance they felt they deserved and achieved their desired

outcome, being involved in the prosecution process was empowering. Take, for example, Angela, who said that going to court helped her to realize her husband's "crime" was against her and that she was a victim. She said:

A lot of times you get to thinking, well, maybe I'm not such a victim, maybe I've done this, maybe I've done that. But when you're actually sitting right there, you realize that you are the victim. And it helps, it helped me. I don't know about other people. It helped me to stand my ground, to keep pushing forward.

But, for many women, the process was not this beneficial. For women who were not recognized as legitimate victims, and for women who believed their needs and wants were not heard and/or accounted for, involvement in the criminal justice system was not a positive or useful experience. Consider the astute observations of Tiffany, a 28 year-old African American, on the usefulness of the criminal justice for battered women:

I think if you, if you're willing to go through pressing charges, and getting restraining orders and things like that, then they're fine with it, depending on how long you were in the relationship. If you were in the relationship for a period of time, then they look down on you, (mimicking them): "why would you stay that long, why didn't you do this earlier." And then even if...you press charges and then don't follow through with it and want to drop the charges later or something like that, then it's "you asked for it" type thing. And I think that's wrong, I mean...we want [the abusers] away...A lot of the times, you sit back and you think about [the violence], and it's like, "I knew that was going to make her mad, make him mad, whatever, I shouldn't have done it. I shouldn't have said it." We have to go through that enough without someone else pointing the finger, like, you know, "you should've done this...and why didn't you do this sooner... and this is the right thing" and punish them, punish them, punish them, punish them type thing. It doesn't help us out any. And then, I don't know...I think there should be more...they should be more trying to find out what it is that woman's feeling, what it is that she's going through, because we're putting ourselves through enough as it is, we don't need no one else putting us through more.

Many of the women I interviewed believed that the criminal justice system, with all of its policies, rules, and regulations, is simply not able to take into account women's individual experiences. As Hopper (2001) found in his study of divorce

proceedings, many divorcing people who seek legal help encounter a legal system that works in terms of a "legal self," which Hopper defines as "a self that is grounded not in the particulars of their own situations...but in a system of generalized, bureaucratic rules..." (p. 127). Similarly, while the women I spoke with wanted an opportunity to present the details of their individual situation, the very nature of the criminal justice system prohibited this. Police officers, judges, and attorneys, as agents of the state, are bestowed with institutional power and it is they who determines what is said and when, not citizens. Many women reported feeling as if they were not heard at the time of the arrest and/or during the prosecution process and as a result, they did not believe the system cared about them as individuals. As one woman stated, the criminal justice system simply viewed her case as "business as usual." For many women, their experiences with the criminal justice system were so negative that they did not want future involvement with it. Almost one-half of the women I interviewed told me that they were either hesitant to use the criminal justice system again or would definitely not use it again, as a result of their negative experiences. One woman told me she had "lost faith in the system" and another told me said she "wouldn't trust them for shit."

Despite the constraining nature of the criminal justice system, women did what they could to assert some degree of power and control. Baker (1997) found that the battered women she interviewed attempted to use the dominant cultural script to get away and stay from their abusive partners. However, she argues that not only did the women find the script limiting in many ways, but institutional support was lacking: "the social-service, law enforcement, and legal systems did not provide the

assistance necessary for women to negotiate a successful resolution to their problems. The complexity and difficulties of individual battered women's lives were not acknowledged" (p. 56).<sup>4</sup> Many of the women that I interviewed also attempted to follow this script but, for the reasons discussed above, found it problematic. Further, some women rejected the script outright, from the moment their partner was arrested against their wishes. Baker found that given the script's limitations, the battered women she spoke with often resisted it by "staying with their abuser, ignoring and lifting restraining orders, and refusing to call or cooperate with police" (p. 56). The women that I interviewed often engaged in similar behaviors. Thus, my data confirms Baker's conclusions; however, my work goes further by demonstrating that the women's resistance frequently continues throughout the prosecution process.

Women's resistance was at times direct, and at other times more subtle. Some women, like Robin, withdrew their participation from the prosecution process (or never gave it to begin with). Some women refused to go to court, despite being subpoenaed. Many women, however, went to court and/or repeatedly attempted to speak to court officials to make their wishes known. Women like Beth, Susan, and Tricia, all made numerous attempts to get someone to listen to them. Another woman, Karen, told me that she finally got people in the criminal justice system to listen to her and take her seriously once she changed how she interacted with them:

*Karen:* They're taking [my husband's violence] more seriously. And I can see that from past experience to this last one. And it has a lot to do with my attitude towards them and their attitude towards me. Cause if you go to them and say "well you guys never do nothing" you know, nobody's going to take you seriously.

*Amy:* So how do you think your attitude towards them changed?

*Karen:* Well, finally, to the point where I said, "Do you realize how many times this has happened?" And [I] said it in a calm voice. And [I said], "I will not allow it. Somebody needs to be accountable for it." So you have to take ownership of



following through. You have to say, "This is my job."

Further, at times, women resisted identities that agents of the criminal justice system attempted to bestow upon them. As Fox (2001) argues, while institutions set the conditions of possibility for self-construction, "selves cannot be institutionally dictated or determined" (p. 191). Women often challenged the criminal justice system agents' interpretations of their actions and words that they believed were wrong and by doing so, attempted to construct alternative selves. Additionally, they used their identities to assert their rights when they felt these rights were neglected by the criminal justice system, claiming "I'm the victim here." One interesting discursive move utilized by some of the women involved the appropriation of victim discourse to highlight ways in which they felt victimized by the criminal justice system. Veronica, who was arrested after defending herself against her boyfriend's attack, said she was a victim of the system. When I asked her if she thought she was a victim, she answered affirmatively and said:

And it wasn't necessarily from the hitting, believe me. The hitting was just one thing, by for me, that was over and done. It's just, once I got hit, it's, like, "OK, got to take another step in life; another direction." But from all this stuff that I had to go through after that [with the police and the court]...that really dug it into me. Losing my home and job and my daughters going through so much; it was just crazy. So to me, I felt like I was [a victim] the whole way.

Veronica saw herself more of a victim of the criminal justice—which she believed caused her to be wrongly arrested, resulting in the loss of her job and home—than of a victim of her boyfriend. The hitting was something that, for her, was "over and done" but the ramifications of her arrest were far more lasting.

Women's resistance to the institutional power of the criminal justice system and the limits it sets on self-construction took many forms. This resistance was not



always successful. However, the important point is that women were not completely powerless in their interactions with agents of the criminal justice system and they demonstrated agency in their attempts to craft "institutional selves" (Spencer, 2001) that would enable them to be heard by police officers, attorneys, and judges, get their needs met, and ultimately, end the violence in their lives.

### Summary

In this chapter I have demonstrated how the discursive environments of institutions shape and limit interaction and self-construction. There are many interactional processes at work during battered women's involvement with the criminal justice system. The women I interviewed attempted to *present* their situations and thus, their selves, in specific ways during their interactions with police officers, attorneys, and/or judges in order to influence both the proceedings and the outcomes of the criminal cases in which they were involved. Simultaneously, women described how their words and behaviors were *interpreted* in particular ways by police officers, attorneys, and/or judges. All of these processes were centered in available discourses surrounding domestic violence—these discourses include criminal justice policies, dominant representations of the "battered woman" and the "victim," and cultural prescriptions about how battered women should act.

Not only have we seen in this chapter, once again, that "victim" and "battered woman" discourses are limited and restrictive, but we also have seen how the criminal justice system produces and enforces such discourses and the identities they offer (Merry, 1995a). If there existed a discrepancy between a woman's self-presentations and the way she was interpreted by a police officer, attorney, and/or

judge, because agents of the criminal justice system are backed by institutional power, ultimately, it was their interpretations (and not the women's presentations) that prevailed. This often came with direct costs to the women. As Martha Mahoney (1991) states:

...cultural assumptions about domestic violence affect substantive law and methods of litigation in ways that in turn affect society's perceptions of women; both law and societal perceptions affect women's understandings of our own lives, relationships, and options; our lives are part of the culture that affects legal interpretation and within which further legal moves are made. Serious harm to women results from the ways in which law and culture distort our experience. (p. 2)

Given that discourses shape subjectivity, the labeling of a woman as a "victim," a "battered woman," or an "abuser" by agents of the criminal justice system determined not only her allowable words and actions, but also the acceptable remedies for her situation. Thus, while some women reported having positive experiences with the criminal justice system, many did not. Not only did some women believe they were wrongly arrested, but others believed that the structure of the criminal justice system barred them from having a voice and/or any control over the processing of their cases and the eventual outcomes. Policies that encourage or mandate arrest and prosecution in domestic violence cases were implemented to remove discretion from criminal justice system workers in an attempt to ensure that these cases were treated uniformly. However, as many have argued, such policies also limit women's choices and strip them of having control over their cases (Baker, 1997; Hoyle, 1998). As my research shows, the actual experiences of many battered women demonstrate the truth of this. While some women praised these policies, most

did not, finding them incapable of addressing the diverse nature of women's individual experiences.

In this chapter, I also demonstrated further ways in which battered women exercise agency. Mahoney (1994) argues that, "social stereotypes and cultural expectations about the behavior of battered women help to hide women's acts of resistance and struggle" (p. 60). Indeed, for many of the women I interviewed, resistance was something other than leaving their relationship and cooperating with the criminal justice system. As Mahoney maintains, women's responses to violence—and, I would argue, to unwanted forms of criminal justice system intervention—are "shaped by the needs, struggles, and commitments of our lives" (p. 60). In spite of the constraints imposed by the institutional and structural power of the criminal justice system, the women I spoke with used a variety of tactics to be heard, to communicate their needs and wants, to use the criminal justice system to their advantage, to resist potentially damaging constructions of identity and prescriptions on how to act, and ultimately, to end the violence in their lives.

## NOTES

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<sup>1</sup> According to this "dominant cultural script," women are required to leave their abusers, maintain restraining orders, and call and cooperate with the police. Clearly, this script is strongly tied to mainstream discourses that advocate for the criminalization of domestic violence and assert that the criminal justice system provides the best means for addressing woman battering.

<sup>2</sup> See Chapter One for a discussion of viewing policy as discourse.

<sup>3</sup> No-contact orders differ from permanent restraining orders. A no-contact order is a temporary criminal restraining order prohibiting the victim and defendant from having any contact with each other until the final disposition of the case. Parties may have no-contact orders lifted prior to the closing of the case by petitioning the judge. Permanent restraining orders are issued after the party requesting the restraining order appears before a judge and demonstrates proof that they are in danger from the party to be "restrained."

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<sup>4</sup> Indeed, in Chapter Four, I demonstrated how all of the prosecutors who took part in the study I worked with supported this script. None of them acknowledged that leaving a relationship may be more dangerous than staying for some women. Further, some of the prosecutors expressed anger and frustration at the women they worked with who did not cooperate with the criminal justice system's prosecution of their abusive partners.

## CHAPTER EIGHT

### Conclusion

Drawing from bell hooks, Ferraro (1996) states that "domestic violence discourse is 'a place of struggle' which shapes experiences and subjectivity" (p. 79). In this dissertation, I have attempted to illuminate these processes. I first traced the cultural roots of modern day domestic violence discourses, focusing primarily on the way they have been shaped by the battered women's movement and the criminal justice system. In particular, I examined dominant cultural constructions of the "victim" and the "battered woman." Next, I explored how twenty-one prosecutors from three different jurisdictions both drew from and challenged hegemonic representations of battered women in their work. Finally, I examined the ways in which these representations influenced the identity work of forty women who were abused by an intimate partner and who were in some way involved with the criminal justice system because of this abuse. This involved an exploration of how women used domestic violence discourses in their processes of self-construction, in framing and making sense of their experiences, and in their self-representations during interactions with police officers, attorneys, and judges. In this chapter, I briefly discuss how an examination of domestic violence discourse has been central to my work. I then consider conclusions in three areas: issues of agency and resistance; the effects of the criminalization of domestic violence; and women's perceived responsibility in their abusive relationships.

To begin, a central component of this dissertation has been to illustrate how discourse mediates experience and constructs subjectivity. Gubrium and Holstein

(2001) argue that in the postmodern world, "social relationships have come under the purview of countless institutions—schools, correctional facilities, clinics, family courts, support groups, and self-improvement programs, among others—that function increasingly to assemble, alter, and reformulate our identities" (p. 9). Thus, we are provided with a multitude of "discursive environments" for identity work. According to the authors, "these distinctive milieus for self-construction comprise institutional discourses that characterize particular settings but they also encompass the practical contingencies of interaction as well as the material features of the environments, as they are interpretively brought to bear on self-construction" (p. 13). Indeed, after woman battering was brought to public attention in the early 1970s, a variety of social institutions and groups—such as shelters for battered women, counseling centers, academia, and the criminal justice system—began constructing this problem in different, although often interconnected, ways. Thus, particular discourses originated from each. While many of the women that I interviewed had experiences with several of these institutions, my focus has been on their experiences with the criminal justice system, in particular. Arguably, such a focus is especially relevant when examining the impact of domestic violence discourses, given the "ascendance of crime control strategies within the discourse(s)" (Ferraro, 1996, p. 88).

I have argued that domestic violence discourse mediates the experiences of *all* social agents involved in the criminal justice system's response to domestic violence. Domestic violence discourses situate battered women and shape and constrains their words, actions, and identities. However, it does the same for agents of the criminal justice system. While there are certainly some differences in these processes, as



power intersects each subject position differently, all of the social “players” are embedded in the relationship that exists between discourse and subjectivity. Therefore, interactions between these players are also structured by available discourses. Further, given that the criminal justice system is characterized by multiple discourses, there are various possibilities for self-construction. The identities of women who are abused by an intimate partner are not simply determined by the criminal justice system. The criminal justice system does, however, “operate from a position of discursive advantage” and ultimately shapes the realm of possibilities for self-construction (Fox, 2001, p. 191). Thus, the control that women have over how they are perceived and the ways in which their cases are handled by agents of the criminal justice system is limited.<sup>1</sup>

This brings me to the first finding that I wish to discuss: women’s agency and resistance. The women I interviewed demonstrated agency in two major ways: through processes of self-construction and through embodied resistance to the institutional power of the criminal justice system. While discourses create a limited field of possibilities for victims of intimate partner violence in their self-construction and interactions with criminal justice system professionals, the identities of the women I interviewed were not a given. They drew from competing discourses in order to both alter and resist identities that were bestowed upon them, and to construct and consolidate identities of their choosing. All of this was done in efforts to achieve their goals and maintain some level of control over their experiences in the criminal justice system. Thus, my research demonstrates that women resisted hegemonic discourses by challenging them and creating counterdiscourses (Davis and

Fisher, 1993). As Fraser (1997) argues, while "the notion of hegemony points to the intersection of power, inequality, and discourse," groups in power do not maintain exclusive control over meaning; instead, "conflict and contestation are part of the story" (p. 154).

Some have argued that focusing on discourse and counter-discourse will never translate into effective feminist politics because discursive resistance to power does nothing to actually transform power relations (Hartsock, 1990). Yet, as Fraser (1989) argues, "struggles over cultural meanings and social identities are struggles for...the power to construct authoritative definitions of social situations and legitimate interpretations of social needs" (p. 6). Further, Davis and Fisher (1993) argue that exploring the "tensions between structured forms of constraint and women's agency" is important (pp. 12-13). This has been a central purpose of my dissertation. The women I interviewed wanted to be able to construct their own identities and form their own interpretations of their experiences and circumstances. Additionally, they had clear and definitive ideas about what they needed and desired. They did what they could to put these processes into motion, not only by attempting to craft their own selves, but by taking action. Many of them did what they could to be heard and use the criminal justice system to their advantage. When this failed, they often refused to go along with what agents of the criminal justice system expected of them. Hence, despite the constraining nature of the criminal justice system, the women were not completely helpless and powerless. Their narratives demonstrate their refusal to be confined—and defined—by the victim/agency dichotomy that so frequently shapes cultural perceptions of battered women (Mahoney, 1994).

My second conclusion and the one that I wish to pay most attention to prompts important questions for social change. An important component of this dissertation has been to examine the effects of the way in which the problem of woman battering is currently framed. And, as I have demonstrated, the framing of this issue as primarily a criminal one has not always had positive ramifications for battered women. Consider Ferraro's (1996) words:

[Domestic violence] discourse is a feminist victory, on one side, as it has urged social recognition of women's oppression and developed material resources and institutions specifically addressed to the problem. It is simultaneously a feminist nightmare, as it has absorbed grassroots struggles into the machinery of social engineering and mass mediation, reinscribing patterns of race, class, and gender domination. (p. 77)

As I discussed in the first several chapters, the criminalization of domestic violence has effectively severed the analysis of woman battering from its political roots. As Schneider (2000) states, under the legal discourse of "crime control," "intimate violence becomes just one other 'crime' problem that is unmoored from its social, historical, and cultural context" (p. 230).

The criminalization of domestic violence led to the notion that the criminal justice system is the venue through which it is "best" addressed. According to Pitch (1995), "to demand the criminalisation of an act implies then to problematise it in a particular way." She continues: "And because the criminalising response is in its very nature a rigid response, allowing no gradations, continuities of evaluation, flexible and elaborate understandings, it transfers these characteristics to the problem, constraining it within these terms" (p. 76). She argues that the very nature of the criminal justice system necessitates the simplification of a social problem into very black and white terms; the demarcation between the "victim" and the "offender" is

clearly defined and both of these categories are constructed rigidly. For Pitch, this has significant consequences. First, there is no recognition of "difference": "from the legal standpoint, ideally, there are neither men nor women, neither rich nor poor, neither black nor white" (p. 77). People are either "offenders" or "victims." The second consequence is that criminalization results in the framing of problems as issues of individual responsibility. Pitch states, "to criminalise a problem means imputing it to clearly identifiable individuals, with the consequence that it is only these who will come to be rendered accountable for the problem" (p. 77). Finally, Pitch argues that criminalization, while legitimating a collective identity of people who the state becomes "obliged to protect," effectively removes self-determination (p. 77). As she puts it: "Specific actors disappear within the much wider category of victims" (p. 78). Indeed, my research has highlighted all of these processes at work during the prosecution of domestic violence cases. The gendered context in which woman battering most often occurs is ignored, as are the structural, social, and cultural factors that produce and perpetuate the problem and limit women's abilities to effectively end the violence in their lives. Further, as I have already discussed, each individual woman's identity becomes subsumed by larger discursive processes that dictate how she is viewed.

This leads to the question of whether or not the criminal justice system is the best place to address and remedy woman battering. Schneider (2000) argues the importance of linking the "general" with the "specific" in feminist lawmaking on battering; for her, responses to domestic violence need to be able to take individual women's experiences into account, while simultaneously recognizing how battering is

connected to broader social patterns of gender subordination. However, as my work demonstrates, this has proven difficult given the current structure of the criminal justice system and the implementation of uniform policies. While mandatory arrest and prosecution policies fail to take women's situated "specific" experiences into account, the criminal justice system as an institution fails to address the "general" gendered context in which battering most often occurs.

I argue that if criminal justice system interventions continue to be viewed as the most appropriate solution to woman battering, we must question the value of mandatory policies that dictate the uniform treatment of all women's cases.

Addressing the historical lack of action by police officers and criminal justice professionals, along with their maltreatment of women in their responses to woman battering, is essential if the criminal justice system remains the central means of redressing domestic violence. But my research indicates that the determination of when uniform policies should be in place and when women's individual life circumstances should be considered is an area of unresolved struggle. A further issue centers on who decides these matters. The state? Feminists? Battered women themselves? At odds here is *who* makes decisions about *when* and *how* the criminal justice system is involved with domestic violence, and hence, the lives of battered women.

The criminalization of domestic violence and the implementation of mandatory policies originated from the attempts of battered women's advocates (and others) to alter hegemonic interpretations of women battering. While this was certainly beneficial in some ways, we must also consider the costs of such a change.

The battered women's movement challenged notions that battering was a "private" matter, instead demanding that it be viewed as a public concern. Many legal scholars continue to argue that "concepts of privacy permit, encourage, and reinforce violence against women" (Schneider, 2000). However, the framing of domestic violence as solely a public issue upholds the public/private dichotomy. Not only do women not have any control over what aspects of their lives are private and what are public, but bracketed is any consideration of the possibility that there is a "grey" area where women, at their own choosing, are in the middle of the public and private realms or moving back and forth between them. Schneider (2000) writes:

"Privacy" is selectively invoked as a rationale for immunity in order to protect male domination. For example, when the police do not respond to a battered woman's call for assistance, or when a civil court refuses to evict her assailant, the woman is relegated to self-help, while the man who beats her receives the law's tacit encouragement and support. (p. 88)

However, what are we to make of claims by battered women that what happens in their relationships is also an issue of "privacy" in order for them to avoid forced intervention by the criminal justice system? Or, what of women who purposefully avoid public means of addressing the violence in their lives because of their lack of control over these means? More than a few of the women that I interviewed vowed to avoid utilizing the criminal justice system to combat any future violence they may experience from their abusers, saying they would handle it "themselves." These were women who did not have satisfactory experiences with the criminal justice system and did not like losing control over how their cases were handled. Most women wanted assistance in dealing with the violence in their lives, but often they did not like the type of help they received or the accompanying stipulations.



Current cultural discourses frame domestic violence as an issue of crime control. As such, battered women are expected to remedy the violence in their lives through use of—and full cooperation with—the criminal justice system. I, along with many others, have demonstrated that many women either do not want to fully cooperate with the criminal justice system or, for a variety of reasons, find doing so disadvantageous. Researchers such as Ford (1991) and Wittner (1998) have shown how women may go back and forth between the public and private realms when attempting to stop the violence from their partners. Ford demonstrated how a woman would sometimes file charges against her abusers but later drop them in order to exercise power in the relationship and to demonstrate “that *she* is the one in charge and that only *she* can alter events which are destined to bring a man to court and possibility to jail” (p. 331). Battered women may also file for restraining orders but continue to live with their partners, using the restraining order as a similar power resource. These women temporarily enter into the public realm and then retreat back into the private, using the threat of re-entry into the public as leverage to control their partner’s violence. However, criminal justice professionals often view these acts as “manipulative.” Because domestic violence is currently viewed as an issue of public concern, if women do not remedy the problem completely through public means—in the manner dictated by the state—they are accused of manipulating the system for private ends and may be denied future assistance. Thus, the issue is forced back into the private realm. Unacknowledged are ways in which poor people, women, and/or people of color have been shown to creatively use the criminal justice system as a “strategy of dispute management” (Merry, 1995a) or as a “power resource” (Ford,

1991; Wittner, 1998) to further their own interests. Again, I argue that current discourses framing woman battering as a completely public issue neglect the political question of who should decide if, when, and how things should be public or private.

Okin (1991) reflects feminist critiques of the public/private dichotomy when she states that "the liberal ideal of the non-intervention of the state into the domestic realm, rather than maintaining neutrality, in fact reinforces existing inequalities within that realm" (p. 83). My own research, in fact, demonstrates how when police refuse to respond to battered women's calls for help, women are at risk of further abuse. However, my work also demonstrates some of the potential problems that arise when women are forced to address violence in their lives through complete public means, particularly when these means are the criminal justice system—an institution that also reinforces existing social inequalities and hierarchies. The current structure of the criminal justice system—including mandatory arrest policies—clarifies and makes static who makes decision about battered women's lives and when; this has proved disempowering to women.

I am by no means arguing that protection orders and the arrest and prosecution of batterers are not useful or in the best interests of some battered women—clearly in many cases they have been life-saving. However, they are not desired by all women, nor do they always "protect the woman, change her partner's intimate behavior, or create life support and alternatives to enable her to be safe" (Scnheider, 2000, p. 92). Theorists such as Brown (1995) question whether or not the state can effectively address imbalances of power and resulting "injuries." She argues that an effort to "outlaw" social injury is, in many ways, troublesome:

It fixes the identities of the injured and the injuring as social positions, and codifies as well the meanings of their actions against all possibilities of indeterminacy, ambiguity, and struggle for resignification or repositioning. This effort also casts the law in particular and the state more generally as neutral arbiters of injury rather than as themselves invested with the power to injure. (p. 27)

However, Brown herself allows that the power of the state is by no means monolithic. And, as Rosga (1999) argues, it is the complexities of state power that allow social actors to "use the state against itself." Focusing specifically on state accountability and hate crime, Rosga demonstrates how individuals both within and outside of law enforcement are aware of the state's "power to injure" (p. 170). She found that both activists and law enforcement officers, in their efforts to define "hate crime" and create police policy, "contribute to the ongoing construction of the function and roles of law enforcement officers" and thus participate in the negotiation of state-accountability (p. 169). As I have demonstrated, similar processes exist surrounding domestic violence. Rosga concludes that instead of simply accepting or rejecting "state-focused" strategies, "we would do well to ask what conditions make it difficult to conceptualize non-state-centered strategies":

What conditions make criminal justice strategies so compelling to activists? Are such strategies sometimes successful in disrupting the state's apparent neutrality, albeit in limited and contradictory ways? Do they create spaces of possibility for mobilizing state power in more just and responsible ways? What are the limits to those spaces? (p. 170)

These are important questions, and should be considered by battered woman's advocates in their continued negotiations with the state.

My third and final conclusion involves the issue of battered women's "responsibility." As I have illustrated, some of the women that I interviewed believed that they were, on some level, responsible for the violence in their relationship; some

women also believed that it was their responsibility to do whatever necessary to end the violence. Talking about women's responsibility is potentially dangerous, for reasons that I have elaborated throughout this dissertation. However, I suspect that women's claims of responsibility represent—at least partially—a need for them to feel that they have some degree of control over their lives. As my work demonstrates, many battered women rejected depictions of themselves as powerless, weak, and helpless. Yet, simultaneously, many of them reported believing that they had no control over the criminal justice process or outcome. Because battering is primarily viewed as a criminal issue, there are few (if any) other options for women who are dissatisfied with the criminal justice system. If women are unhappy with the way the criminal justice system responds to the violence in their lives—yet they concurrently recognize that there are few other social alternatives to help them—their claims of responsibility make sense. Such claims provide them with a means of having some degree of power and control over the violence they experience, and more broadly, their own lives. As Mahoney (1994) argues, dominant cultural representations and expectations about the behavior—and, I would add, words—of battered women often conceal women's struggles and acts of defiance. We must consider the possibility that women's claims of responsibility in their abusive relationships may not indicate that they have simply absorbed discourses that blame the victim, but may instead reflect awareness by the women that they only have themselves to rely on in a society that lacks adequate institutional support for battered women.

Future discussions about social remedies to domestic violence need to account for the diversity of women's experiences and needs. Linda Mills (1996) writes:

...true empowerment for battered women is achieved not through obedience to the expectations of legal or social work advocates or models but through acknowledgement of the woman's need to reconsider and re-evaluate the meaning of the trauma in a flexible time frame and a supportive environment. (p. 266)

An effective response to domestic violence needs to acknowledge the historical, cultural and social context in which it occurs. Cultural constructions of battered women and victims need to be severed from associations with particular versions of femininity and should be expanded to account for the experiences of all women, regardless of their social location. Further, there needs to be greater recognition of the various steps women take to attempt to stop the abuse they experience and the constraints they face when doing so. Finally, while women should not be held individually accountable for ending the violence in their lives, each woman's unique circumstances and experiences need to be taken into consideration when social assistance is offered. To craft a response that takes all of these factors into account is certainly a challenging task; however doing so is necessary to alleviate domestic violence while simultaneously empowering women.

## NOTES

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<sup>1</sup> While examining the "identity work" of criminal justice professionals was beyond the scope of this project, assumedly these processes are similarly impacted by domestic violence discourses. In other words, just as battered women are limited in their self-constructions and self-presentations by available discourses, police officers, prosecutors, and judges most likely are limited, as well.

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## APPENDIX A

### Prosecutor Interview Schedule

1. How are domestic violence cases handled by your office? Can you describe how a domestic violence case is handled from beginning to end?
2. What is your overall impression of domestic violence cases?
3. What is your overall impression of victims?
4. What is your overall impression of offenders?
5. Are domestic violence cases treated differently than other criminal cases? If yes, how so?
- 5a. Is your role as a prosecutor different for domestic violence cases than for other types of crimes? If yes, how so?
- 5b. Do you receive any type of specialized training for handling domestic violence cases?
6. What kinds of factors influence the prosecution and conviction of domestic violence cases? For Victim? For Offender? For Case Characteristics? For Other?
- 6a. Are there internal policies that are unique to DV cases which affect case screening/charging/decision making?
7. First, what are the most common methods used by the court to separate victims and offenders?
- 7a. How does the court handle dual-arrest/cross-complaint situations?
- 7b. How does the court determine who is the "true" victim in cross complaint cases or whether it is a mutually combative relationship?
8. What is the victim's role in the prosecution of their cases?
- 8a. Ideally, how much time should be spent with a victim in preparation for prosecution?
- 8b. How often and at what state do you ask for victim's input into their cases?
- 8c. What are some common methods you might use to make domestic violence victims feel supported?
- 8d. Generally, how satisfied are victims with case outcomes?
9. What is the role of the victim's advocate in domestic violence cases?
- 9a. How do women utilize this service? How is it determined who will have contact with a victim advocate?
- 9b. How do you think victims advocates have influenced the prosecution of domestic violence cases?
10. Are case dismissals a problem for your office?
- 10a. Do you have a policy in place that is designed to address case dismissals?
11. How often do domestic violence victims request that their cases be dropped?
- 11a. What are the primary reasons women give for requesting that charges be dropped?
- 11b. How do you think victim involvement can be encouraged in these cases?
12. Do you feel are in a position to be able to stop the abuse?
- 12a. What restricts/limits you from being able to stop the abuse?
13. Do you think the CJ response to domestic violence is too lenient? Too harsh? Just right?
14. Do you feel the CJ response to domestic violence is efficient?
- 14a. What could be done to improve the efficiency of the CJS response to DV?
15. Do you think the CJS is "user-friendly" to victims of domestic violence?
- 15a. What can be changed to make it more user-friendly?
16. What is your overall impression of the CJ response to DV? What could be changed to make the CJS response a better one?
17. Describe the most recent DV case you had.

**APPENDIX B**  
**Recruitment Flyer**

**Would you like the opportunity to share your  
police and court experiences with someone?**

I am conducting a research project through the University of Rockford examining what women who have experienced domestic violence think about the police and the courts. I want to know what happened and what you wanted the police and courts to do. Did the police and courts help you? Did you feel you had any control in the process? Were your opinions taken seriously?

\*You must have been the victim in a misdemeanor domestic violence case sometime within the past year.

\*You will be paid \$30.00 for your time.

\*I will meet you at a time and place that works for you.

\*I will keep what you tell me private. Anything you tell me will not change any services you receive from the police or the courts.

**Interested? Have questions?**

\*Call Amy at the RU Prosecution Project at (XXX) XXX-XXXX

OR

\*Fill out a permission slip giving the Safehouse staff permission to give me your contact information and I will try to reach you. Make sure to indicate when is a safe time to call you and whether or not is OK to leave a message.

**Your opinions and experiences matter – please take the time to share  
them with me.**

The Rockford County/Lanville Prosecutor's/DA's Offices assume no responsibility for this study. The University of Rockford Criminal Justice System Project assumes full responsibility for this study.



## APPENDIX C

### Victim Interview Schedule

1. Tell me about the history of your relationship with \_\_\_\_\_.
2. Could you review the experiences you have had dealing with the CJS in regards to domestic violence? Describe what led to your involvement with the CJS.
3. Tell me about your experiences with the criminal justice system. In general, were they positive or negative?
4. Did you choose for the police and courts to become involved in your situation? If so, what made you call them? Do you remember what you were feeling/thinking at the time? What goal(s) were you hoping to reach with their involvement?
5. How did you feel when they arrived?
6. What did the police do?
7. Did the police present you with any choices? If so, were you satisfied with these choices?
8. How much control do you feel you had when dealing with the police? In other words, do you think they took into account what you wanted to have happen?
9. Tell me how you felt about the amount of control you feel you had when dealing with the police. Were you satisfied with this control?
10. Did you wish other options were available to you besides what you were given by the police?
11. Did you go to court? If yes, how did you feel about going there? How did you feel while you were there? What influenced your decision to go/not go?
12. Did you ever talk to the prosecutor? Tell me about this experience.
13. Did you ever talk to the VA? How did you feel about your conversations?
14. How much control do you feel you had when dealing with the court system? In other words, do you think they took into account what you wanted to have happen?
15. Tell me how you felt about the amount of control you feel you had when dealing with the courts (DA and/or judge). Were you satisfied with this control?
16. Did the prosecutor and/or judge present you with any choices? If so, were you satisfied with these choices?
17. Did you wish other options were available to you besides the options you were given in court?
18. Did the police and/or court involvement help you achieve your desired goal(s)?
19. Did you do anything along the way to help you achieve your desired goals? Why or why not? If so, tell me about it. How did it feel to be able to do something to help achieve your goals? If not, were you upset about this?
20. Do you believe the system took your opinions seriously?
21. Tell me about the outcome of the case. How did you feel about this outcome?
22. How did the process impact your view of the criminal justice system?
23. How do you think the police view victims of domestic violence? How does this make you feel?
24. How do you think the courts and DAs view victims of domestic violence? How does this make you feel?

25. Do you think you did anything to challenge those opinions?
26. What does the term "victim" mean to you? How do you relate to this term?
27. What does the term "battered woman" mean to you? How do you relate to this term?
28. How did the process impact your relationship with the person arrested for physically harming you? How did the process impact any violence you have experienced by that person?
29. Would you want the police involved if you were to ever again experience violence from the person arrested for physically harming you? Why or why not?
30. Would you want the court involved if you were to ever again experience violence from the person arrested for physically harming you? Why or why not?
31. (If she says she wouldn't want criminal justice system involved): What would you do if you were to experience violence again?
32. Do you think there are other resources besides the criminal justice system to assist you if you did experience violence again? If so, are they helpful, in your opinion?
33. What, if any, changes would you like to see in how the criminal justice system handles violence against women?
34. Did you do anything to empower yourself while dealing both with the violence you have experienced and the criminal justice system? In other words, what have you done to take care of yourself or make yourself feel stronger or better?
35. Anything else you'd like to say?
36. What did you think of the interview?

**APPENDIX D**  
**List of Interviewees**

- #1: Pam, 45, white
- #2: Valerie, 43, African-American
- #3: Tricia, 38, white
- #4: Laura, 29, white
- #5: Ann, 36, white
- #6: Robin, 28, white
- #7: Karen, 46, white
- #8: Gina, 40, white
- #9: Beth, 48, white
- #10: Rose, 45, African-American
- #11: Jean, 43, white
- #12: Kathy, 35, white
- #13: Barbara, 36, white
- #14: Jewel, 37, African-American
- #15: Julia, 21, Hispanic
- #16: Paula, 37, white
- #17: Tiffany, 28, African-American
- #18: Susan, 30, white
- #19: Veronica, 25, African-American
- #20: Heather, 38, white
- #21: Daisy, 47, African-American
- #22: Ellen, 56, white
- #23: Nicki, 24, African-American
- #24: Betsy, 41, white
- #25: Gloria, 32, African-American/Hispanic
- #26: Carla, 58, African-American/Native American
- #27: Florence, 50, white
- #28: Marta, 20, Hispanic
- #29: Krista, 28, African-American
- #30: Tammy, 22, Native American
- #31: Rita, 52, African-American
- #32: Kim, 46, white
- #33: Liz, 41, white
- #34: Angela, multiracial
- #35: Jan, 43, white
- #36: Shondra, 55, African-American
- #37: Darla, 36, African-American
- #38: Tracy, 37, white
- #39: Mary, 40, white
- #40: Lauren, 21, white